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Veterans Treatment Courts: Pure Pretextualism or a Venue for Veterans' Needs?

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**Nova Southeastern University
College of Arts, Humanities and Social Sciences
Department of Justice and Human Services**

Veterans Treatment Courts:
Pure Pretextualism or a Venue for Veterans' Needs?

by


John W. Erickson, Jr., M.A., M.M.O.A.S., M.S., J.D.


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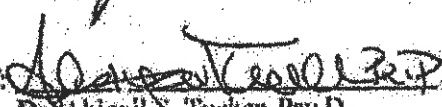
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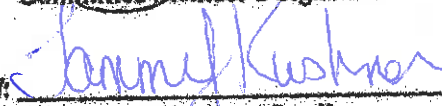
Approval Page

This applied dissertation was submitted by John W. Erickson, Jr., under the direction of the persons listed below. It was submitted to the College of Arts, Humanities and Social Sciences, Department of Justice and Human Services, and approved in fulfillment of the requirements for the degree of Doctor of Philosophy at Nova Southeastern University.

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Dedication

For my Clan
Tiffany, John III, Malachi, Zachary,
Samuel, Megan, Cassie, Emma, and Abby

In memory of
Nancy Diane Erickson (1948-1992),
and Arthur Clement Staples (1917-1991)

Abstract

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Doctor of Philosophy

Nova Southeastern University
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The intended goals of Veterans Treatment Courts (VTCs) are consistent with what drove the establishment of Drug Courts and Mental Health Courts in the '90s. That is, a recognition that the traditional criminal justice system is geared toward punitive court dispositions; not the unique characteristics of addicts and/or mental health defendants (G. Lerner-Wren, personal communication, January 12, 2015). For example, In Dade County, Florida, a former U.S. Attorney, then the Dade County State Attorney, recognized that reform was necessary to avoid the criminalization of drug addiction; given the high prevalence of cocaine abuse. Today, U.S. Military Veterans returning from Iraq and Afghanistan have a highly unique and challenging set of medical, psychological, neurological, and social adjustment problems. Like onto their forbearers, VTCs were created to: (1) address these very unique issues; and (2) where possible, avoid punishing U.S. Military Veterans for crimes, which may have been committed as a direct result of their illnesses (*e.g.*, Post-Traumatic Stress Disorder (PTSD) and/or Traumatic Brain

Injury (TBI)). One such VTC notes its mission “is to promote public safety and assist and support [U.S. Military V]eterans and their families by creating a coordinated response through collaboration with the [U.S. Military V]eterans’ service delivery system, community-based services, and the criminal justice system” (Holbrook, n.d., para. 1). However, little research has been accomplished to ascertain whether VTCs are accomplishing their intended goals. Indeed, while many programs and/or organizations have been created to assist U.S. Military Veterans (*e.g.*, the U.S. Department of Veterans Affairs, the Wounded Warrior Project, etc.), many have arguably fallen short of achieving their mission and/or vision statements. That is to say, while their intentions are almost always good, one is left to wonder whether some level of pretextualism exists.¹ To that end, what follows is a brief review of the literature on therapeutic jurisprudence, problem-solving courts, mental health courts, and how they are influencing today’s VTCs. Thereafter, a program evaluation, utilizing the evaluative methodology model, is employed to ascertain: (1) whether VTCs are meeting their articulated and/or established goals; (2) the effectiveness of VTCs with regard to their intended clients (*i.e.*, U.S. Military Veterans); and (3) whether an element of pretextualism exists with respect to VTCs. Data was collected from three operating VTCs (*e.g.*, publications, public records, websites, etc.). The research informs: (1) an element of pretextualism exists with regard to VTCs; (2) the intentions of VTC judges are noble; and (3) VTCs realize their intended

¹ As it relates to this research, pretextualism refers to “a negative or suspect intention in the manner in which [VTCs] are being established and/or implemented” (G. Lerner-Wren, personal communication, February 24, 2016). More to the point, the research was designed to determine if VTCs are, amongst other things, “talking the talk” and “walking the walk.”

goals more often than not. That is to say, VTCs are generally meeting the needs of U.S. Military Veterans who meet their strict eligibility requirements.²

² Most VTCs are not “walking the walk,” which is the pretext. The research reveals that while VTCs are arguably doing some good on behalf of U.S. Military Veterans, they are not reaching a greater part of the population due largely to the gatekeeping role of VTC prosecutors, and the rigid eligibility requirements established by VTCs for U.S. Military Veteran participation. Indeed, by setting the bar so high, the only U.S. Military Veterans who gain entry are those who are likely and/or guaranteed to succeed. Thus, it’s likely that the low recidivism rates reported by VTCs are inflated and/or false positives.

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Chapter 1: Introduction

Statement of the Problem

Mental illness has been a serious problem facing U.S. Military Veterans for thousands of years.³ “No matter what time in history, a [person’s] experiences of battle that often equate to scenes and memories of unimaginable bloodshed, anger[,] and fear are with them for the balance of their lives” (Tick, 2014, para. 1). When Service Members “return from a ‘combat zone,’ the joy and thankfulness from family and loved ones is often cut short as the [V]eteran begins to let down his ‘happy front’” (Tick, 2014, para. 4). Indeed, “[t]he sadness and confusion that [Veterans] might start to exhibit is often just the beginning of a road that will try the best of men, wives, relationships, family, and friends” (Tick, 2014, para. 4). Not surprisingly, many U.S. Military Veterans find themselves before the criminal court, with little to no guidance. All too often, a guilty plea, followed by jail time, is the result.⁴

Numerous solutions have been proposed to combat this. Perhaps, the most well-known, and the focus of this research, is the Veterans Treatment Court (VTC). Like the

³ “In 2011, more than 1.3 million Veterans received specialized mental health treatment from VA for mental health related issues” (U.S. Department of Veterans Affairs, 2014, pg. 1).

⁴ The very nature of their service makes Veterans more susceptible to a range of anti-social behavior, which strains the resources of even the most caring government and/or private agencies. Far from being immune to this impact, the criminal justice system has felt and will continue to feel the effects of the same (Hawkins, M.D., 2010).

regular mental health court, designed to address mental illnesses that frequently plague U.S. Military Veterans, who are also criminal defendants, VTCs are growing in number; albeit, relatively slowly. They are part of the criminal justice systems' attempt to help the mentally ill solve their problems and prevent recidivism using the philosophy from therapeutic jurisprudence (Wexler, 1999). While the philosophy and intentions of VTCs are positive, much like the mental health courts that they emulate, the question remains as to whether VTCs are accomplishing that which they initially set out to do (*i.e.*, meet the needs of U.S. Military Veterans so they stay out of the criminal justice system). As a consequence, research is needed to ascertain whether VTCs are "all talk and no action" (*i.e.*, pure pretextualism as Perlin (1991) would suggest) or a true venue for using the courts to help problem-solve U.S. Military Veterans' needs.

The research title and/or topic.

"Veterans Treatment Courts: Pure Pretextualism or a Venue for Veterans' Needs?" This is a program evaluation designed to ascertain the "successfulness" of VTCs by examining recidivism rates, case studies where available, and the court reports of those whom they portend to serve.

The research problem.

This research was intended to conduct a qualitative study by analyzing whether three VTCs: (1) are achieving their articulated and/or intended goals; (2) are "effective" with respect to the same; and (3) are exhibiting elements of pretextualism. The presentation of data gathered is further intended to enable court administrators, judges, treatment providers, and others in the criminal justice system to reflect upon their

articulated and/or intended goals, and make appropriate adjustments where deemed necessary.

The research is particularly important because its primary goal is to ascertain: (1) whether U.S. Military Veterans are receiving adequate services and/or treatment allegedly being provided by VTCs; (2) how and/or when U.S. Military Veterans qualify for said services; and (3) whether *all* U.S. Military Veterans are afforded the same opportunities to appear in VTCs. The research is also geared to determine whether U.S. Military Veterans are being cherry-picked by program administrators based solely upon their likelihood of success as has been reported as occurring in other areas of U.S. Military Veterans' treatment programs.

Audience/stakeholders.

The audience and/or stakeholders relative to the research include: (1) U.S. Military Veterans; (2) treatment providers; and (3) VTC administrators, clerks, judges, and/or courtroom players (*e.g.*, attorneys, and bailiffs) of three distinct and separately evaluated VTCs.

Program

Three VTCs (*i.e.*, (1) Broward County, Florida; (2) El Paso County, Colorado; and (3) Anchorage, Alaska) were evaluated.

Purpose of the Evaluation

The purpose of the program evaluation is to ascertain: (1) whether three VTCs are meeting their articulated and/or established goals; and (2) the effectiveness of three VTCs with regard to their intended clients (*i.e.*, U.S. Military Veterans who have been diagnosed with (a) mental illness(es)).

Definition of Terms

These definitions of terms are used in an operational way.

Pretext – “[t]he cover up of an actual fact [sic] with a weak or falsifying reason or motive” (“The Law Dictionary,” n.d., para. 1).

Pretextualism – “where the government publicly offers as justification a legitimate objective for state action that merely serves to mask its true purpose, which is illegitimate” (Choudhry, 2014, p. 260).

In further defining “pretextualism,” Kahn (2011, para. 4) notes:

Does repeated pretextualism — whether one is making or enforcing the law — weaken the rule of law? When tempted to use a law for an unintended purpose, how should the “good” official (read the adjective however you like) distinguish an innovative use from a destructive one? My own motivation for this research stems from concern that using law to achieve an objective that the law was clearly unintended to achieve might do something destructive to the rule of law itself. Maybe it does some harm to the official who wields power in that pretextual way, too, an official who may be the worst-placed government agent to exercise the sort of discretion that creative administration of the law demands. Pretextualism may be habit-forming and, like cigarettes, unhealthy.

Veteran(s) – “under Federal Law a [Veteran] is any person, who served honorably on active duty in the armed forces of the United States. (Discharges marked [General and Under Honorable Conditions] also qualify.)” (Town Services, 2014, para. 3).

Veterans Treatment Court(s) (VTC(s)) – Generally speaking, Veterans

Treatment Courts (VTCs) provide an alternative to incarceration for U.S. Military Veterans with trauma spectrum disorders (*e.g.*, PTSD, TBI, etc.), who have been charged with a lower level felony (Born, 2014) or misdemeanor.

Chapter 2: Literature Review

Introduction

In January 2008, the first official VTC opened in Buffalo, New York (Cartwright, 2011). “[A]n earlier, informal court was started in Anchorage, Alaska in 2004” (Cartwright, 2011, p. 305). Immediately following the launch of the Buffalo VTC, Judge Russell and his team were inundated with requests from courts, elected officials, Veterans Service Organizations, and concerned Americans around the country witnessing the same increases in U.S. Military Veterans entering the criminal justice system (The American Legion, 2015).

Modeled on drug and mental health courts, and using therapeutic jurisprudence as its philosophical roots, VTCs generally aim to divert low-level offenders, whose criminal behavior is tied to the mental and physical effects of their military service, away from incarceration and into suitable treatment (Cartwright, 2011). More specifically, the literature reveals VTCs were envisioned to address the underlying problem(s) at the root of U.S. Military Veterans’ criminal activity (Cartwright, 2011). Cartwright (2011) argues that, for combat Veterans, their underlying problem is not their substance abuse or even their posttraumatic stress disorder (PTSD), it is their combat trauma, and that is something that cannot be addressed as effectively in a traditional drug court or mental health court. Compounding the problem, the stigma of mental health treatment in the military frequently precludes troops from seeking proper care (Slate & Johnson, 2008).

To that end, VTCs were created to address a unique situation. However, a thorough review of the literature discloses an unanswered question (*i.e.*, Are VTCs accomplishing that which they were created to do?). To answer this question, the literary review begins with a historical examination of therapeutic courts; leading to the creation of VTCs.

The History of Therapeutic Justice

“As a legal theory,” according to legal scholars Hora, Schma, and Rosenthal (1999, p. 442), “therapeutic jurisprudence is still relatively new.” To be sure, the literature indicates well-respected Professor David Wexler first used the term in 1987, in a paper he delivered to the National Institute of Mental Health (NIMH) (Hora et. al., 1999). Along with Professor Bruce Winick, Wexler identified therapeutic justice “as the study of the extent to which substantive rules, legal procedures, and the roles of lawyers and judges produce therapeutic or antitherapeutic consequences for individuals involved in the legal process” (Hora et al., 1999, p. 442).

In or around 1995, Slobogin further developed Wexler’s definition of therapeutic jurisprudence by defining therapeutic jurisprudence as “the use of social science to study the extent to which a legal rule or practice promotes the psychological and physical well-being of the people it affects” (Hora et al., 1999, p. 443). Today, Slobogin’s expanded definition is “accepted” by most legal scholars writing on the subject of therapeutic justice. It was from this arguably “narrow start in mental health law” that the legal scholarship surrounding therapeutic jurisprudence exploded in a comparatively short period of time (Hora et al., 1999, p. 443); and, possibly, too quickly for the criminal justice system to absorb the same.

Inasmuch as therapeutic jurisprudence relies on the social sciences to guide its analysis of the law, it has presented criminal justice professionals with an arguably radical departure from traditional legal jurisprudence (Hora et al., 1999). To that end, further review of the literature verifies Professor Wexler has been a pioneer in promoting the concept of therapeutic jurisprudence to the legal community. Indeed, it was largely his efforts that led to the theoretical framework that is, today, instrumental in “in the analysis of society’s role” in the adjudication and treatment of mentally ill offenders (Kondo, 2000, p. 379).

Wexler’s theoretical framework specifies that, like it or not, therapeutic justice may produce therapeutic or antitherapeutic consequences upon individuals that are often “minimized by the legal community” (Wexler, 1992). Indeed, Wexler’s declarations re therapeutic justice may have been ill-received by its intended audience (*i.e.*, judges, attorneys, and law enforcement personnel, who are trained in and proponents of an adversarial system of justice) (Wexler, 1992).

Ostensibly obvious to those within the legal profession, the minimization of psychological effects is viewed as nothing more than a mere consequence of the criminal justice system. To be sure, the traditional criminal justice system normally minimizes any and/or all impact psychological problems may have on criminal activity (Slate & Johnson, 2008). In this context, one’s mental health receives little to no consideration. This does not come as a surprise to the proponents of therapeutic jurisprudence, who note that reliance upon the adversarial system of justice may yield “unsatisfactory results” (Kondo, 2000, p. 380). They contend the adversarial system has had, and continues to

have, a negative effect on our Nation's U.S. Military Veterans; despite the fact that most U.S. Military Veterans are "as tough as nails."

Notwithstanding the fact that most U.S. Military Veterans are battle proven warriors, a return to the battlefield, in this case the courtroom, benefits no one. The American legal system is a prime example of trying to solve problems by pitting two sides against each other and then letting them slug it out in public (Stolle et al., 1996). Consequently, flashbacks and/or blackouts during courtroom proceedings are not uncommon. This only furthers the point that litigation generates a war mentality, which permeates amongst legal professionals, and which *must* end.

With the aforementioned mantra in mind, the proponents of therapeutic justice contend the legal community has a greater responsibility to its clients. For example, Kondo (2000, p. 380) reasons: "Concerned judges, attorneys, law enforcement personnel, hospital administrators, and members of the psychiatric community possess a humanitarian responsibility to fully analyze and comprehend potential therapeutic and antitherapeutic consequences of the law." He further opines: "These various decision-makers--knowingly or not--participate in molding the application of legal rules and procedures to make such rules either more beneficial or more detrimental to the treatment of the individuals impacted" (Kondo, 2000, p. 380).

Fortunately, a portion of the legal community, however small, has taken heed and/or heard the call to action. Said one such professional, there should be established amongst its members "a common objective in promoting the psychological health of clients involved in the legal process, thereby minimizing the detrimental effects of the law" (Kondo, 2000, p. 381). Others have begun to follow suit.

Stolle (1996), a law professor, advocates if more than one legal tool is available to achieve a client's intent, the role of the integrated framework is to choose the most therapeutic, or, at a minimum, the least antitherapeutic alternative. Stolle (1996) further advocates that lawyers, whether in private practice or public service, have the unique opportunity to become "helping professionals," preserving the psychological well-being of clients in a manner consistent with notions of fairness and justice.

Today, a growing number of legal professionals have also come to recognize that a "good lawyer" must be more than a fervent advocate for a specific client. He/she must consider more than merely the specific case or issue(s) presented (Stolle & Wexler, 1997). In the role of counselor, whose goal is the prevention of litigation and the settlement of disputes, it has been emphasized that lawyers can fulfill their classic role as healers and peacemakers rather than promoters of litigation and strife (Stolle & Wexler, 1997). To be sure, mandatory mediation and unbundled legal services have become the new reality. Notwithstanding, and arguably due to antiquated adversarial philosophies -- as previously discussed -- it has taken longer than some in restorative justice circles may have expected for the novel mentality of therapeutic justice to catch on.

Specialty Courts

As England and the United States entered the twentieth (20th) century, the mentally ill were frequently assigned to "treatment facilities," an action consistent with the suggestions of reformers of the time (Kondo, 2000). Fast-forward to the dawn of the twenty-first (21st) century, where precious little has changed, except that mental hospitals and out-client treatment are even less available to the mentally ill in most societies.

Recent studies, which have carefully investigated the public's irrational fear of mentally ill offenders, as well as its lack of sympathy for them, have determined that antiquated beliefs directly interfere with the assimilation of these individuals (*i.e.*, those who suffer from mental illness(es)) back into the community.⁵ As a result, numerous laws and policies have been created, which are detrimental to the well-being of mentally ill offenders, and often lead to inescapable imprisonment and homelessness rather than to the provision of human diagnosis, treatment, and rehabilitation (Kondo, 2000). Wholly ineffective with regard to the treatment of the mentally ill, attentive courts, and judges, began to take notice.

In an effort to curb what would eventually become known as a “revolving door for the mentally ill,” judges began to periodically monitor correctional facility environments to ensure that the conditions of incarceration were conducive to treatment objectives. In the same vein, select courts began to reject excuses such as a lack of available funding, overcrowding, or even a good faith effort to obtain treatment resources when such excuses were used to justify a correctional facility's decision to withhold necessary diagnosis and treatment from mentally ill inmates (Kondo, 2000). To be sure, a distinctive need was clearly *not* being met by the legal community. Thus, began the formation or impetus of specialized state courts (*i.e.*, therapeutic courts).

Juvenile courts.

⁵ Notwithstanding, Dr. Joel A. Dvoskin (2016) opines “[w]hile most people with mental illness are not violent most of the time, it is also true that some people with mental illness will indeed behave violently some of the time. The challenge for practitioners and researchers alike is to try to identify the treatments and life situations which raise or lower the odds for individuals.”

Juvenile courts were the first American courts explicitly built on a therapeutic ideology. To that end, sincere progressive reformers believed that the juvenile court would be a helper, a scientific and quasi-medical tool that could divert delinquents from criminal paths (McCoy, 2004). These same progressives believed that by conducting individualized inquiries into the lives of troubled youth, the antecedent causes of their misbehavior could be identified. “Once these antecedent causes were identified, an individual treatment plan could be implemented that would overcome these antecedent causes, thereby correcting the youth’s subsequent behavior. This was the goal and promise of scientific social casework” (McCoy, 2004, p. 1515).

McCoy (2004) suggested that a similar approach is taken in today’s drug courts, and because drug courts have the longest and/or oldest pedigree in the contemporary problem-solving court movement, they are the example that has been most studied. Indeed, unlike other types of therapeutic courts, there is now extensive literature on drug courts, which can be thoroughly analyzed.

Drug courts.

Beginning with the earliest experimental program in Dade County, Florida, in 1989, and developing into a wide assortment of programs throughout the 1990s, drug courts have become the best-known and most thoroughly studied of the therapeutic courts (McCoy, 2004). To be sure, what McCoy has termed the “drug court experience,” has provided the framework for the development of other therapeutic courts (*e.g.*, domestic violence courts and mental health courts).

Because drug courts received federal funding, which also mandated an evaluation of each funded program, there is wide-ranging literature about them that can be skimmed

to distinguish major themes and observe how those themes changed as the courts grew and their constituencies shifted (McCoy, 2004). For example, Cavanaugh (2011, p. 470) reports “out of the box thinking” allowed Dade County’s judges “to monitor offenders’ drug treatment programs in order to end their drug use and consequently reduce drug-related crime.”

Like most drug courts across the country, the *modus operandi* of the drug court is characterized by abandoning the adjudicative model of the criminal justice system and adopting a collaborative team approach; whereby, the judge, prosecutor, defense counsel, case manager(s), and treatment professionals work together toward the goal of both treating and rehabilitating offenders (Cavanaugh, 2011). Numerous drug courts were created in the wake of the “drug court experience.”

As of 2011, there were more than 2,300 drug courts operating throughout the United States (Cavanaugh, 2011). And with approximately 80% or more of the imprisoned population abusing alcohol and/or drugs, drug courts have been working to decrease both drug use and recidivism rates. For example, Cavanaugh (2011) reports the recidivism rate for incarcerated drug users who commit drug-related offenses within three (3) years after they are released is approximately 70%, while the rate of recidivism for drug court graduates is significantly lower, between 16 and 27% in the first two (2) years after release. In Florida’s Broward County drug court, it has been reported that approximately 90% of participants remained arrest-free (Kondo, 2000). Likewise, Oregon’s drug court also reported lowered re-arrest statistics and/or recidivism rates as a result of successful treatment (Kondo, 2000). Without a doubt, the literature confirms low

recidivism results in reduced prison costs and a reduction in the previously alluded to revolving-door (Cavanaugh, 2011).

A comparison of drug and juvenile courts suggests some important differences. For example, Cavanaugh suggests that, in the latter, the court places a greater emphasis on the role of the family throughout the entire process, and as a means of support for the offending juvenile while he/she is undergoing treatment (Cavanaugh, 2011). Moreover, the research indicates juvenile courts usually include more significant outreach to each offender's home and community, which in turn mobilizes the efforts of other significant people in the juveniles' lives to create teams of "program partners" than can teach, supervise, coach, and discipline youthful offenders (Cavanaugh, 2011). This is especially important as support for juvenile offenders in various areas of their lives is paramount to their success in not only the treatment program but in *all* aspects of their lives (Cavanaugh, 2011). Newly created mental health courts have experienced similar success.

Mental health courts.

The literature reveals that mental health courts have also been effective in reducing rates of criminal recidivism among mentally ill offenders (Kondo, 2000). According to Judge Lerner-Wren, and as of fall 2000, more than 675 clients have entered the Florida Mental Health Court (MHCT), and no defendant had committed an additional violent crime as of that time. Kondo (2000) further reports Judge Lerner-Wren's finding is consistent with a 1998, MacArthur Foundation study showing that mentally ill people who take their medications are no more dangerous than the population in general. More

importantly, it appears that mental health court judges and legal professionals *know* it to be the case.

“Florida’s Howard Finkelstein, [then] a chief assistant public defender commented, ‘Mentally ill people who commit misdemeanors shouldn’t be in jail. It’s not humane, it’s not right, it’s not cost effective’” (Kondo, 2000, p. 406). Reaching back to its roots, Judge Lerner-Wren further observed that her misdemeanor MHCT operates under the rubric of the therapeutic jurisprudential notion that the court can do more than just be a mere adjudicator of charges, but could actually take an active role in the healing of people coming before it (Kondo, 2000). Indeed, the principles of therapeutic justice serve as the foundation for most MHCTs.

In contrast to the more germane state trial courts, which rely upon the time-honored adversarial system to ensure justice, the MHCT judge facilitates largely nonadversarial court proceedings, with an approach whose ultimate goals for the qualifying defendant include treatment, rehabilitation, and ultimate release. To this end, the MHCT judge seeks the participation of the prosecution, defense, correctional facilities, law enforcement, *and* treatment providers (Kondo, 2000).

Interestingly, defendants who are not familiar with the operation of MHCTs, and who may have been “brainwashed” by the courtroom theatrics of television or motion picture dramas (*e.g., The Practice* or *A Few Good Men*) may be less than satisfied with what they perceive to be a lackluster courtroom performance attorney. Thus, the responsibility often falls upon the MHCT judge to astutely address attorneys who may put on a “dog-and-pony-show” for the uneducated defendant, who mistakenly equates a Perry Mason-style adversarial approach with legal brilliance and/or intelligence. Doing

so enables the MTHC to establish a more cooperative, as well as a more productive, courtroom environment and/or setting (Kondo, 2000). VTCs follow a similar approach. To that end, what follows is a broad overview of the literature on VTCs. The same has substantially aided in the determination as to whether VTCs are accomplishing their intended goals.

Veterans Treatment Courts

The literature on VTCs is both sparse and varied. And, with little to go on, the literature frequently reports VTCs are a hybrid of drug and mental-health treatment courts (Russell, 2009b, p. 130). While not one-hundred percent accurate, the assertion is not far from the truth.

As was previously reported, drug treatment courts typically accept individuals into their program who have a principal diagnosis of substance dependency, and although they work with persons who have a diagnosis of mental illness, they generally prohibit those who have a serious and/or persistent mental health disease. By comparison, mental-health treatment courts usually accept only those individuals who have a serious and/or persistent mental health diagnosis. VTCs normally accept U.S. Military Veterans: (1) who have a clinical diagnosis of serious and/or persistent mental health disease; *and* (2) with a primary diagnosis of substance dependence (Russell, 2009b).

One of the tenants of the misdemeanor MHCT court in Broward County is that they only accept volunteers to the court; and, there is some literature on how voluntary it actual is, especially, for those with persistent and serious mental illness who are off their medication(s) (Walker, 2016). The felony MHCT, domestic violence courts, and drug courts are not voluntary (L. Walker, personal communication, March 9, 2016).

Why Veterans treatment courts?

Since 2008, VTCs have been popping up around the country; and, arguably, for good reason. But, why? Undoubtedly, issues, which are addressed in VTCs, can be addressed in either an established drug and/or MHCT. Fortunately, the literature reveals there are many answers to this question. Perhaps, the most significant is the fact that U.S. Military Veterans are a distinctive “niche population with unique needs” (Russell, 2009a, p. 363).

Service Members have many shared experiences. Not surprisingly, many of these experiences are *not* common among their non-military peers (Russell, 2009a). As a consequence, members of the military and U.S. Military Veterans form a “unique population,” which calls for tailored care (Russell, 2009a), and traditional community services may not be adequately suited to meet their needs. “[S]ervice members and their families experience unique stressors as part of the military experience . . . [Thus] the delivery of high quality care for psychological health, including prevention, early intervention and treatment, requires providers who are knowledgeable about and able to empathize with the military experience” (Russell, 2009a, p. 363).

The literature further reveals U.S. Military Veterans respond more favorably to other U.S. Military Veterans in the courtroom (Russell, 2009a). To this end, VTCs oftentimes allow for U.S. Military Veterans to go through the treatment court process with people who are similarly situated and have common past experiences and needs. Indeed, VTCs seek to link individuals with service providers who share and/or understand the unique experience of military service, military life, and *all* of the

distinctive needs that may arise from that experience (Russell, 2009a). The literature conflicts as to the early history of VTCs; but, not as to their mission.

The history of Veterans treatment courts.

Judge Michael Daly Hawkins (2010, p. 565) contends: “The first known [VTC] was established in Anchorage, Alaska in 2004. Begun by two judges, [U.S. Military V]eterans themselves, observing increasing numbers of [U.S. Military V]eterans appearing before them, the Anchorage[, Alaska VTC] handles largely misdemeanor cases (including those reduced from felonies)” The Anchorage VTC is also “overseen by its own court administrator” (Hawkins, 2010, p. 565).

Some four years later, in 2008, the literature agrees that the Buffalo Veterans Treatment Court (hereinafter referred to as the “Buffalo Court”) was established “under the direction of Buffalo City Judge Robert T. Russell, Jr.” (Cavanaugh, 2011, p. 474). However, both Cavanaugh (2011) and Russell (2009) contend that the Buffalo Court was the first court of its kind. Neither makes reference to the Anchorage, Alaska VTC, created in 2004. On that point, the literature addresses the Buffalo Court more than the Anchorage, AK VTC. Indeed, few sources make any reference whatsoever to the Anchorage, AK VTC. Ask many, “Does Alaska have its own currency?” The review digresses.

As the presiding Judge over Buffalo’s Drug Treatment, as well as the Mental Health Treatment courts, Judge Russell noticed that many of the participants on his docket had something in common--they were U.S. Military Veterans. Judge Russell further opined it was the noticeable rise in the numbers of U.S. Military Veterans on the city treatment court dockets that ultimately led to the creation of a specialized VTC

(Russell, 2009). Arguably, Judge Russell's observations led directly to the creation of Buffalo Court's mission *and* vision.

The mission of Veterans treatment courts.

Modeled after the county drug and mental health courts, the Buffalo Court was established to serve *both* rehabilitative and preventive functions: offering treatment to U.S. Military Veterans who suffer from serious physical and/or emotional conditions, which have led to their criminal behavior, while simultaneously reducing the risk of recidivism (Cavanaugh, 2011). The driving impetus behind the Buffalo Court was to: (1) successfully rehabilitate U.S. Military Veterans by diverting them from the traditional criminal justice system; while at the same time (2) provide them with the tools they need in order to lead a productive and law-abiding lifestyle (Russell, 2009).

To achieve the aforementioned goal, the Buffalo Court strives to provide U.S. Military Veterans suffering from substance abuse issues, alcoholism, mental health issues, and/or emotional disabilities with: (1) treatment; (2) academic and vocational training; (3) job skills; and/or (4) placement services (Russell, 2009). The Buffalo Court also provides "ancillary services to meet the distinctive needs of each individual participant, such as housing, transportation, medical, dental, and other supportive needs" (Russell, 2009a, p. 364). The "articulated missions" of VTCs around the Nation are similar.

In Washington State, the articulated mission of the Thurston County Veterans Court is to "serve the community and increase public safety by monitoring, supporting and holding accountable justice-involved individuals with mental illness in accessing treatment and improving their quality of life" ("Veterans Court," 2014b, para 1). The

established mission further portends to “treat each participant with respect and dignity, thus empowering [U.S. Military Veterans] to make positive changes in their [lives]” (“Veterans Court,” 2014b, para. 1).

The District Attorney for the Fourth Judicial District in Colorado Springs, Colorado, Dan May, informs the “Veterans Court provides an alternative to incarceration for U.S. [M]ilitary [V]eterans with trauma spectrum disorders who have been charged with a lower level felony. With the permission of the 4th Judicial District Attorney’s office, eligible [U.S. Military V]eterans are moved from the traditional courtroom environment into the Veterans Court” (Born, 2014, para. 1). Born (2014, para. 2) goes on to say that “[p]rogram participants agree to actively engage in treatment and counseling, make regular court appearances, and are carefully supervised. Program staff assists participating [U.S. Military V]eterans in accessing mental health and or substance abuse treatment, and connect them to educational housing, and employment resources. Peer support is also available.”

In Florida, Broward County celebrated its new Veterans Court on Monday, April 30, 2012, with a distinctive opening ceremony featuring guest speaker Will Gunn, Esquire, United States Department of Veterans Affairs Counsel, County Judge Edward H. Merrigan, an 18-year U.S. Military Veteran, and Lieutenant Colonel in the U.S. Army, “was officially honored as the presiding judge for Broward’s Veterans Court by Chief Judge Peter M. Weinstein” (“Veterans Court Begins in Broward County,” 2012, para. 1). In celebration, a Joint Color Guard representing the United States Army, Navy, Air Force, Marines and Coast Guard kicked off the event (“Veterans Court Begins in

Broward County,” 2012). The first docket for the county’s [VTC] was held on Monday, May 7, 2012 . . . (“Veterans Court Begins in Broward County,” 2012).

The 17th Judicial Circuit Court of Florida reports:

“Broward County Veterans Court is a voluntary 12-18 month program designed for [U.S. Military V]eterans who have served in the U.S. Armed Forces and are currently experiencing legal problems due to suffering from behavioral, mental health, or substance abuse disorders. An alternative to the traditional court setting, Veterans Court will provide services such as intensive probation supervision, counseling and peer mentoring, random drug and alcohol testing, medication monitoring and social services. The Court promotes sobriety, recovery, and stability by providing veterans with the tools to move forward with their lives while satisfying the legal requirements of the court process” (“Veterans Court Begins in Broward County,” 2012, para. 3).

The first federal VTC experienced a much more quiet start.

Without any fanfare, Magistrate Judge Paul Warner quietly started a Veterans Court in Salt Lake City, Utah, in March 2011. At the time, it was the only one of its kind on the federal level in the nation (Romboy, 2011). Magistrate Warner “struck upon the notion for [Veterans Court] while thumbing through a magazine at [a] VA hospital . . . as he waited for his father to get some medical care. His own military background figured into his decision. He served six years active duty in the Navy and later joined the Army National Guard, retiring as a [C]olonel” (Romboy, 2011, para. 20). Other than getting the approval from the Chief U.S. District Judge, Tena Campbell, Magistrate Warner hasn’t obtained any special permission to hold VTCs (Romboy, 2011). He simply asked fellow

judges in the federal courthouse to watch for U.S. Military Veterans and send them his way (Romboy, 2011). Today, in conjunction with the U.S. Department of Veterans Affairs, social worker Amy Earle serves as the Veterans Justice Outreach Program Coordinator (Romboy, 2011).

“The Veterans Justice Outreach Program (VJO) is a VA based initiative focused on partnering with local law enforcement, jails and the courts to assist eligible [U.S. Military V]eterans access the treatment they need. Part of this initiative [is] to assist the local community in the creation of Veterans Courts” (Earle, 2014, para. 1). The VJO informs that its primary purpose of VTCs is to ensure that eligible U.S. Military Veterans, who are involved in the criminal justice system, have access to benefits, services, and the treatment that they deserve (Earle, 2014). In Utah, the VA Salt Lake City Health Care System’s current VTC involvement includes: (1) the United States District Court of Utah, with Federal Magistrate Judge Paul Warner, who is referenced above; and (2) the Salt Lake City Justice Court - Veterans Court with Judge Baxter (Earle, 2014).

Since the Anchorage, Alaska VTC opened in 2004, other counties in the United States have established VTCs, including El Paso County, Colorado; Rock County, Wisconsin; Lackawanna County, Pennsylvania; Cook County, Illinois; Madison County, Illinois; and Denton County, Texas (Cavanaugh, 2011). “In December 2011, California courts reported that nine Veterans Courts programs had been established throughout the state” (“Veterans Courts,” 2014a, para. 4). As of June 2014, three additional VTCs were reported in California (“Veterans Courts,” 2014a). Today, VTCs can be found in more than 80 locations across the country (Dao, 2012). VTCs are *not* found within the military’s

judicial system (Dao, 2012). It's probable that this is the case because a confirmed mental illness often equates to a one-way ticket out of military service.

Veterans treatment courts in the military.

In 2011, Major Evan R. Seamone published a 200-page article in *The Military law Review*; wherein, he argued that “military courts may be aggravating the problems of service members by discharging them without first treating them for conditions like post-traumatic stress disorder (Dao, 2012, para. 3). According to Seamone:

The military actually has a long history of rehabilitative ethic in its judicial system . . . dating back at least to a program under President Andrew Jackson to return incarcerated soldiers to duty. Rehabilitative programs in World War I and World [War] II returned deserters and other offenders to duty, and during Vietnam, the Army had a retraining brigade at Fort Riley for the same purpose” (Dao, 2012, para. 19).

“Seamone theorizes that alternative sentencing lost favor after the rise of an all-volunteer military in the 1970s, when the military was looking to push problematic service members out rather than keep them in” (Dao, 2012, para. 20), and he's arguably on point. In a decade of budget cuts and drawbacks, the same can be said of today's U.S. Military. To date, Major Seamone reports that he has received some positive response to his article from the Department of Veterans Affairs, but not much feedback from his fellow military lawyers (Dao, 2012). Those who are familiar with the negative stigma the military attaches to mental illness should *not* be surprised.

Seamone concludes that the need to revive alternating sentencing in the military tribunal is more crucial than ever because so many U.S. Service Members are returning

from war with hard-to-diagnose problems like PTSD or TBI, which can lead to criminal behavior (Dao, 2012). Indeed, it is estimated that not less than 20% of our U.S. Service Members suffer from a form of PTSD (Dao, 2012). Major Seamone continues, “[w]hen symptoms go untreated, they commonly result in problems that could be criminal. Confinement as a response to this is not always going to be the best way to treat the condition” (Dao, 2012, para, 27).

The number of U.S. Service Members who are getting pushed out through adverse administrative actions or punitive discharges is likely to grow because the U.S. Armed Forces are downsizing (Dao, 2012). Unfortunately, many of those who are discharged will be people who need treatment for mental health related illnesses (Dao, 2012). To this end, David Philipps, a reporter with *The Gazette* newspaper in Colorado Springs, Colorado, was recently awarded a Pulitzer Prize for national reporting “for a series on the mistreatment of wounded combat veterans” (“Colorado Springs Gazette reporter wins Pulitzer Prize,” 2014, para. 1).

“Philipps received the award for his work ‘Other Than Honorable,’ a three-day series that ‘examined how soldiers injured during the war were being discharged with no benefits’” (“Colorado Springs Gazette reporter wins Pulitzer Prize,” 2014, para. 4). “Philipps, who covers the military for *The Gazette*, was also a Pulitzer finalist in 2010[,] for a series of ‘painstaking stories on the spike in violence within a battered combat brigade returning to Fort Carson after bloody deployments to Iraq, leading to increased mental health care for soldiers’” (“Colorado Springs Gazette reporter wins Pulitzer Prize,” 2014, para. 10).

In his award-winning story, Philipps focused on how the U.S. Army was discharging U.S. Military Veterans, many of them with TBIs and/or PTSD, for minor misconduct (“Colorado Springs Gazette reporter wins Pulitzer Prize,” 2014). “The brain injuries made them more likely to get into trouble but the discharges left them without any medical benefits to help them with their injuries” (“Colorado Springs Gazette reporter wins Pulitzer Prize,” 2014, para. 14). Often finding themselves in trouble on the “outside,” these same U.S. Military Veterans may or may not be eligible for assistance from VTCs; assuming such courts exist in their area(s), *and* applying U.S. Military Veterans meet their stringent eligibility requirements.

Eligibility to participate in Veterans treatment courts.

VTCs are not for everyone. Most VTCs follow the Buffalo Court model, “extending eligibility only to those whose ‘criminal behavior occurred because of a brain injury [TBI], mental illness[,], or mental disorder[,], or PTSD that occurred while they were in military service in a combat zone or a hazardous duty area’” (Cavanaugh, 2011, p. 479). To be sure, there is no “free pass” when it comes to admitting U.S. Military Veterans into a VTC. Their eligibility is based not on their status as a U.S. Military Veteran, “but rather upon the notion that their criminal conduct was caused by an underlying physical or psychological injury that was incurred during military service in a combat zone” (Cavanaugh, 2011, p. 479).

Specifically, with regard to the Buffalo Court, “[e]ligibility to take part in [VTC] proceedings is limited to [U.S. Military V]eterans who, because of their service in a combat zone or hazardous duty zone, suffer from PTSD, a TBI, or other mental disease, and are consequently facing criminal charges” (Cavanaugh, 2011, p. 475). “The only

crimes presented before the Buffalo Court are low-level, nonviolent misdemeanors and felonies; more serious crimes continue to be brought in the regular criminal justice system” (Cavanaugh, 2011, p. 475). To this end, and “[a]t the time when a service member is arrested, local police record [his/her V]eteran status to determine whether [he/she] is eligible for participation in the Buffalo Court (Cavanaugh, 2011, p. 475).

“After eligible [U.S. Military V]eterans are identified, assessed, and referred to [VTCs], they are then linked with a program of services fashioned to meet their individual needs” (Russell, 2009b, p. 131). “Once inside the Buffalo Court, a VA employee meets with each [U.S. Military V]eteran to ascertain whether that [U.S. Military V]eteran is registered with the VA; if the [U.S. Military V]eteran is not registered, registration takes place on the spot and the veteran can therefore be enrolled in rehabilitation and treatment programs immediately” (Cavanaugh, 2011, p. 475-76).

VTC staffs and volunteer [V]eteran mentors assist the U.S. Military Veteran with an array of stabilization services, such as: (1) emergency financial assistance; (2) mental health/trauma counseling; (3) employment and skills training; (4) safe housing; (5) advocacy; and (6) other supportive services (Russell, 2009b). “At regular status hearings, treatment plans and other conditions are periodically reviewed for appropriateness, incentives are offered to reward adherence to court conditions, and sanctions for nonadherence are handed down. Completion of the program is defined according to specific criteria” (Russell, 2009b, p. 131).

Another criterion for eligibility requires what might be considered by some as a “leap of faith.” “When [U.S. Military V]eterans are brought before the Buffalo Court, they ‘are required to plead guilty to their crimes. In exchange for a suspended sentence

that can include prison time, they must consent to [undergo a strict rehabilitation program that includes] regular court visits, [and] counselng[.]” (Cavanaugh, 2011, p. 476) for starters. Other jurisdictions are far more conservative (Jacobs, McFarland & Ledeen, 2012, p. 6), making it near impossible to get before a VTC.

“The VTC in Cook County, Illinois operates with one of the most restrictive admissions policies in the country, excluding all violent offenders, including those [U.S. Military V]eterans charged with domestic violence, as well as all convictions for DWI and DUI” (Jacobs et al., 2012, p. 6). The Tulsa County, Ohio VTC, one of the oldest VTCs, which was “established soon after Buffalo’s court in 2008[,] is similarly rigid in their exclusion of violent offenders--both formally and in practice” (Jacobs et al., 2012, p. 6-7). Whether their rigidity is beneficial, is unknown and/or a mystery. Indeed, little to no evidence exists with regard to the successes and/or failures of most VTCs. To be sure, the literature depicting results of the same is scant at best.

The results of Veterans treatment courts.

Jacobs et al. (2012, p. 7) speculate that, “[b]ecause the advent of [VTCs] is recent and the court model is relatively young, the criminal justice community is still figuring out what works and what doesn’t.” It is their feeling that “[t]he more data we have about the kinds of crimes [U.S. Military V]eterans are being arrested for--and the reasons why certain propensities are true--the more difficult it is to justify the restrictive eligibility requirements that many courts adhere to” Jacobs et al. (2012, p. 7). They go on to say that “[w]hether the motivation for excluding violent offenders reflects legitimate public safety concerns, political pressures, an unwillingness to stray from established specialty court models, or a desire to produce successful results by cherry-picking cases [(i.e., the

pretextualism alluded to earlier)], restrictive eligibility policies are intuitive and troubling” Jacobs et al. (2012, p. 7).

Jacobs et al. (2012, p. 7), are accurate and/or correct when they announce that, “[i]ntuitively, the policies seem out of line with one of Judge Russell’s oft-articulated goals, central to the [VTC] model—‘to overcome the [U.S. Military V]eteran’s warrior mentality.’” Statically, they argue, the “policies ignore what we know to be true about the kinds of crimes [U.S. Military V]eterans commit, and what we are starting to understand about the connection between PTSD and aggressive behavior” (Jacobs et al, 2012, p. 7). Current literature reveals these concerns have yet to be addressed.

Judge Russell (2009a, p. 370) reports that “[a]s of December 2008, the Buffalo . . . Court had had seventy-five participants and three graduates. These men and women enter the [Buffalo] Court with a variety of issues, ranging from substance abuse to mental health, homelessness, unemployment, and strained relationships.” At the time of their graduation, all three graduates were: (1) substance free; (2) dealing with their mental health concerns; (3) had a place to live; and (4) had stable employment or were actively engaged in furthering their education (Russell, 2009a). Russell also reports that, of the three graduates, “[m]any have also managed to repair damaged relationships with family and friends” (p. 370). He continues, “[t]o date, the Buffalo . . . Court graduates[, again, all three of them,] have a 0% recidivism rate” (Russell, 2009a, p. 370).

Just how the aforementioned statistics were obtained is not fully explained. It can be assumed that, as of December 2008, and only eleven months following the inauguration of the program, that the three graduates spoken of kept themselves out of the

criminal justice system, and/or out of trouble. Judge Russell (2009a) admits the lack of merited research with respect to the same.

In 2010, Hawkins (p. 566) reported that in the eighteen months since the Buffalo Court has been in operation, “approximately 130 [U.S. Military V]eterans have participated, fourteen of whom have ‘graduated’ (completed program requirements)-none of whom have become repeat offenders. Criminal charges involving two other [U.S. Military V]eterans have been referred to the traditional criminal justice system.” Whether the two referred individuals are two of the fourteen graduates remains unclear. Cavanaugh’s (2011) report is slightly different.

From January 2008 to September 2009, Cavanaugh (2011) reports: One hundred twenty U.S. Military Veterans entered the Buffalo Court’s treatment program. “While three-fourths of the [U.S. Military V]eterans who first appeared before the court did not have jobs, all are now employed or pursuing further education (save only five who failed out of the program and were returned to the regular criminal justice system)(Cavanaugh, 2011, p. 478). Because the program takes more than one year to complete, there were only eighteen graduates as of late 2009 (Cavanaugh, 2011). That’s four more than reported by Hawkins (2010, p. 566). The difference is unexplainable.

In what may be an effort to prevent an argument with respect to the numbers, Judge Russell (2009a) contends the successes of these U.S. Military Veterans may not be adequately expressed simply by the inexistence of recidivism and/or relapse. “Rather, their successes may be better understood by the positive changes in their individual lives. Some have experienced positive changes in their personal lives, relationships in marriages. Some have been able to successfully reunite with their children” (Russell,

2009a, p. 370). Indeed, “[s]ome have made ‘lemonade out of lemons’ and turned community service sanctions into permanent gainful employment. Some have decided to make the commitment to work in the treatment field after graduation. These [U.S. Military V]eterans now have their lives back on track” (Russell, 2009a, p. 370). Perhaps, most significant are the changes of the demeanor and attitudes of these U.S. Military Veterans. “Participants emerge from the process standing tall, smiles on their faces, with a renewed sense of hope, pride, accomplishment, motivation, and confidence in their ability to continue to face challenges and better their lives” (Russell, 2009a, p. 370).

Russell (2009a) goes on to say that the long-term benefits of VTCs are immeasurable. He then predicts that the Buffalo “Court will produce similar benefits to society as other treatment courts across the country have (Russell, 2009a, p. 371). His message is conflicting.

Along the same lines, Cartwright (2011) reminds readers that the rapid development of VTCs has implications not only for U.S. Military Veterans, who encounter the criminal justice system but for *all* U.S. Military Veterans returning from Iraq and Afghanistan, as well as for the deployment of other types of treatment courts. Without *any* concrete data, Cartwright opines: “For those who do participate in treatment courts, the results *seem* (emphasis added) to be positive” (Cartwright, 2011, p. 315). Notwithstanding, and perhaps, most importantly, Cartwright (2011, p. 315) notes VTCs are too new to have any real data. Cartwright highlights additional concerns.

According to Cartwright (2011), there is a very real concern that VTCs are not serving enough of the U.S. Military Veterans who most need their help. For example, many U.S. Military Veterans live outside of the areas served by VTCs and cannot access

them (Cartwright, 2011). Many U.S. Military Veterans suffering from severe combat stress are ineligible because their first crime(s) was/were violent; and focusing on Veteran status rather than combat-related stress might not serve the original purpose of the courts (Cartwright, 2011). Moreover, early data from the Anchorage VTC presents another potential problem: between 2004 and 2007, 79% of U.S. Military Veterans who received treatment through the VTC were between the ages of forty-one and sixty, suggesting that the VTC may have had some trouble reaching younger U.S. Military Veterans from current conflicts (Cartwright, 2011). In sum, it appears that there is still much work to be done before it can be competently argued that VTCs are helping the U.S. Military Veterans that they were created to assist.

Recommendation and Conclusion

Current research has been conducted to address whether VTCs are the best option for responding to the needs of U.S. Military Veterans who are charged with crimes (Cartwright, 2011). Nevertheless, it remains necessary to determine whether VTCs are actually fulfilling their expectations (Kondo, 2000). To be sure, of the results reviewed, the exceptionally high success rate raises questions of validity in reporting at best. As Jacobs et al. (2012) note, there may be a desire by some to produce successful results by cherry-picking certain cases (*i.e.*, pretextualism) for the VTCs. Indeed, the preceding literary review reveals little to no research has been conducted on the topic. For example, in 2011, Cartwright (p. 315) observed: VTCs “are too new to have any real data” To be sure, the Anchorage, Alaska VTC had only one re-arrest out of 34 graduates in two years, and to date, none of the graduates of the Buffalo court have been rearrested” (Cartwright, 2011, p. 315). Which U.S. Military Veterans were selected to participate in

VTCs, and which U.S. Military Veterans were not, remains unclear. To that end, further research in this area is both required and necessary. The methodology that was employed to do the same follows.

Chapter 3: Methodology

Programs

Three separate and distinct VTC programs were evaluated.

Broward County Veterans Treatment Court.

Per its website, the “Broward County Veterans Court is a voluntary 12-18 month program designed for [U.S. Military V]eterans who have served in the U.S. Armed Forces and are currently experiencing legal problems due to suffering from behavioral, mental health, or substance abuse disorders” (17th Judicial Circuit Court of Florida, 2012, para. 3). The County’s website goes on to say that the VTC is “[a]n alternative to the traditional court setting, [which provides] services such as intensive probation supervision, counseling and peer mentoring, random drug and alcohol testing, medication monitoring and social services” (17th Judicial Circuit Court of Florida, 2012, para. 3). To this end, the Court advocates that it “promotes sobriety, recovery, and stability by providing [U.S. Military V]eterans with the tools to move forward with their lives while satisfying the legal requirements of the court process” (17th Judicial Circuit Court of Florida, 2012, para. 3).

Colorado Springs Veterans Court.

The 4th Judicial District Attorney reports that the Colorado Springs VTC provides an alternative to incarceration for U.S. Military Veterans with trauma spectrum disorders who have been charged with a lower level felony (Born, n.d.). “With the permission of

the 4th Judicial District Attorney's office, eligible [U.S. Military V]eterans are moved from the traditional courtroom environment into the Veterans Court" (Born, n.d., para.1).

Anchorage, Alaska Veterans Court.

The Anchorage, Alaska Veterans Court defines itself as a "specialized court designed to facilitate the rehabilitation of eligible [U.S. Military V]eterans who are charged with criminal offenses" (The Alaska Court System, 2014, para. 1). The Court's pamphlet further provides: "judicial monitoring coupled with alternative sentencing plea agreements to help eligible [V]eterans succeed with their own rehabilitation and return to a productive law-abiding lifestyle, thereby reducing crime and its costs to society" (The Alaska Court System, 2014, para. 1).

Whether the aforementioned VTC programs are meeting their articulated goals and/or criteria is the primary focus of the evaluative research. A detailed explanation of the procedures that were utilized by the evaluator to do the same follows.

Participants

Participants included VTC coordinators, VTC judges, and/or the key player(s) of the three VTCs examined.

Procedures

In their *Handbook of Practical Program Evaluation*, editors Wholey, Hatry & Newcomer (2010, p. 12) instruct: "[c]redible evaluation work requires clear, valid measures that are collected in a reliable, consistent fashion. Strong, well-founded measurement provides the foundation for methodological rigor in evaluation as in research and is the first requirement for useful evaluation findings." To be sure, "[e]valuators *must* begin with credible measures and strong procedures in place to ensure

that measurements are consistent across space and time” (Wholey, Hatry & Wholey, 2010, p. 12) (emphasis added). Given this direction, the evaluation design follows.

Design.

An evaluation design identifies: (1) what questions will be answered by the evaluation; (2) what data will be collected; (3) how the data will be analyzed to answer the questions; and (4) how the resulting information will be used (Wholey, Hatry & Wholey, 2010). Regarding the latter, the goal of the evaluative assessment at hand was to communicate the value of the programs’ activities to policymakers and/or the key stakeholders. The remainder of the evaluative design is more carefully articulated below. It begins with the enunciation of the research questions.

Research questions/objectives.

The evaluative methodology was utilized to establish: (1) whether VTCs are meeting their articulated and/or established goals; (2) the overall effectiveness of the three VTCs, with regard to their intended clients (*i.e.*, U.S. Military Veterans) and as determined by the data collected (*e.g.*, evaluative stories, recidivism rates, etc.); and (3) whether an element of pretextualism exists with regard to VTCs. The data referred to was collected from three operating VTCs (*e.g.*, publications, public records, websites, etc.), utilizing a variety of data collection procedures.

Data collection procedures.

Agency records.

“Traditional sources of data used by evaluators are records kept by either the agency delivering the service being evaluated or by other agencies that have records relevant to the work of the program being evaluated” (Hatry, 2010, p. 243). Agency

records, which are more commonly referred to as administrative records and/or archival records, generally include “any data formally entered into an agency’s records system by a representative of the organization, such as a caseworker, nurse, or teacher” (Hatry, 2010, p. 243). Fortunately, “[s]uch information is generally being regularly collected and recorded by an agency, whether or not an evaluation is being conducted” (Hatry, 2010, p. 243). Agency records collected and examined in conjunction with this research include documents and/or databases which contained: (1) defendant characteristics; (2) admissions criteria and/or eligibility; (3) disposition of work (*e.g.*, the number of defendants who completed the three programs examined); (4) the number and categories of alleged crimes; and, perhaps, most importantly, (5) recidivism (Hatry, 2010).

Semi-structured interviews.

“Conducted conversationally with one respondent at a time, the [Semi-Structured Interview or] SSI employs a blend of closed- and open-ended questions, often accompanied by follow-up why or how questions” (Adams, 2010, p. 366). Perhaps, more importantly, is the fact that “[t]he dialogue can meander around the topics of the agenda—rather than adhering slavishly to verbatim questions as in a standardized survey—and may delve into totally unforeseen issues” (Adams, 2010, p. 366). Key to the evaluator is the fact that SSIs can be both relaxed and engaging (Adams, 2010). “About one hour is typically considered a reasonable maximum length for SSIs, to minimize fatigue for both interviewer and respondent” (Adams, 2010, p. 366).

For the purposes of this evaluation, VTC administrators (*i.e.*, VTC clerks, coordinators, and judges), were interviewed using the SSI. The interview questions crafted summoned information related to both the operation and successfulness of the

three programs examined. The subjective nature and openness of the questions were designed to elicit responses which not only answered the research questions presented; but, provided insider information re the inner workings of the VTCs, and the characteristics of its participants. The questionnaire used is attached as *Exhibit A*. Structured appropriately, the SSIs opened the doors to more explicit and/or telling evaluation stories.

Evaluation Stories.

“An evaluation story is a brief narrative account of someone’s experience, with a program, event, or activity that is collected using sound research methods. The purpose of collecting the story is to gain insight into someone’s experience or to shed light on an evaluation topic” (Krueger, 2010, p. 406). Key factors used differentiate the evaluation story from other stories include: (1) deliberateness; (2) the source; (3) verification; (4) a description of how the stories were captured; and (5) “a statement by the evaluator about the degree to which the story represents other individuals with similar circumstances” (Krueger, 2010, p. 407).

In conjunction with the aforementioned SSIs, probing questions were used to get additional insights as to how VTC administrators felt, and other details needed to complete each story (Krueger, 2010). To this end, the evaluator developed questions to elicit stories and guide the storytellers. Field notes were also combined with audio recordings to complete the evaluative stories obtained. The evaluator also observed the Colorado Springs, Colorado VTC, and reported on that which was observed first-hand.

Limitations.

Potential problems and/or limitations regarding the use of agency records include: mission or incomplete data; concerns with data accuracy; the availability of data in overly aggregated form; unknown, different, or changing definitions of data elements; and confidentiality and privacy considerations (Hatry, 2010), while “SSIs are time-consuming and labor intensive and require interviewer sophistication” (Adams, 2010, p. 366). Challenges and/or limitations regarding the use of stories include the following: using stories often takes more time than anticipated; stories are frequently dismissed as mere anecdotes; it takes great skill to get stories out of people; and, it often takes a great deal of editing to develop powerful and memorable stories (Krueger, 2010). All of these limitations were overcome.

The limitations associated with the use of agency records were overcome by: going back to the records, and related data sources to fill in as many gaps as possible; checking the reasonableness of the data; undertaking revised data collection where necessary; and, securing the needed permissions from persons or organizations about whom individual data were needed (Hatry, 2010). And, despite the disadvantages of SSIs, they offered extraordinary benefits.

“If you need to ask probing, open-ended questions, and want to know the independent thoughts of each individual in the group” (Adams, 2010, p. 367), SSIs are uniquely suited for the same. Moreover, SSIs were especially useful here, where the evaluator needed to ask probing, open-ended questions on topics that the respondents might not be candid about if they were sitting with peers in a focus group (Adams, 2010). Additionally, the use of stories in the evaluative study provided the evaluator with a considerable amount of useful information.

“Stories are memorable and effective in conveying emotional factors. People have a natural interest in stories, and this interest benefits those seeking to communicate evaluation results” (Krueger, 2010, p. 422.) Moreover, stories can also be used in a variety of ways not previously alluded to. For example, “evaluators might offer a series of stories on a theme, . . . or use a story to illustrate data obtained in other ways to describe a unique or rare event” (Krueger, 2010, p. 422).

Milestones.

The first milestone in completing the evaluative research was to identify the VTC administrators, to include the VTC coordinators and judges of the three VTCs to be examined. Once identified, the evaluator interviewed each of the administrators and/or respondents by way of an SSI and further sought to obtain evaluative stories from each.

In addition, the evaluator requested all available data contained within the three VTCs agency records. Any and/or all information obtained was subsequently tabulated and/or recorded using suitable software, charts, graphs, etc. Trends were recorded and an appropriate data analysis follows.

Data analysis.

The qualitative data obtained was used to build a defensible summary of the way things are (Rogers & Goodrick, 2010). More specifically, the qualitative data acquired was used to build a defensible argument about the contribution, or lack thereof, of the VTCs’ programs to particular outcomes (Rogers & Goodrick, 2010). In conjunction with the same, appropriate coding was employed (*e.g.*, “[a]ttributes [were] identified before data collection and extended during the process of the evaluation as further data [was]

collected or become available” (Rogers & Goodrick, 2010, p. 439)), and statistics tendered.

Finally, ethical issues were considered for all evaluation work, to include: “not exceeding the competence boundaries of the evaluator or evaluation team; providing informed consent; considering the costs; potential harm, and risk; and acting with integrity and trust” (Rogers & Goodrick, 2010, p. 449). Other ethical issues considered included: confidentiality and identifiability; the censorship of hot examples; the ownership of stories; and the ethics of participation and ownership (Rogers & Goodrick, 2010).

Chapter 4: Results

Procedures

Hypotheses, and research questions.

Hypotheses.

1. An element of pretextualism exists with regard to VTCs.
2. VTCs realize their intended goals more often than not (*i.e.*, they are generally meeting the needs of some U.S. Military Veterans).

Research questions.

1. Whether VTCs are meeting their articulated and/or established goals.
2. Determine the overall effectiveness of the three VTCs, with regard to their intended clients (*i.e.*, U.S. Military Veterans), and as determined by the data collected (*e.g.*, evaluative stories, interviews, recidivism rates, etc.).
3. Whether an element of pretextualism exists with respect to VTCs.

Evidence Found

Broward County Veterans Treatment Court.

On or about September 29, 2015, the evaluator interviewed Judge (Colonel) Edward H. Merrigan Jr. (“Judge Merrigan”). Judge Merrigan is a Combat Veteran of Operation Iraqi Freedom, who has accumulated more than 22 years of military service (Merrigan, 2015). Judge Merrigan presides over Broward County’s Veterans Treatment

Court (Merrigan, 2015). He has presided over the Broward County Veterans Treatment Court since it was established in 2012 (Merrigan, 2015).

In combination with Judge Merrigan's answers to the Veterans Treatment Courts Ph.D. Dissertation Questionnaire, attached hereto as *Appendix A*, Judge Merrigan provided the evaluator with a photocopy of the Administrative Order Establishing Veterans Treatment Intervention Court Program (*i.e.*, Order Number 2012-35-Crim), attached hereto as *Appendix B*. In addition, Judge Merrigan provided the evaluator with a copy of a PowerPoint presentation, which he utilizes to instruct U.S. Military Veterans re the Broward County Veterans Treatment Court. Said PowerPoint presentation is attached hereto as *Appendix C*. Information contained within each of the provided sources has been included in this section.

History.

On May 7, 2012, Chief Judge Peter M. Weinstein established a Veterans Treatment Intervention Court Program, for county and circuit criminal cases, in the 17th Judicial Circuit Court of Florida (Weinstein, 2012). Entitled the Broward County Veterans Treatment Court, the newly established treatment intervention court was established to address the increasing number of Florida's U.S. Military Veterans, many of whom: (1) have served in one or more of the on-going military conflicts in Iraq and Afghanistan; and/or (2) suffer from post-traumatic stress disorder (PTSD) and/or a traumatic brain injury (TBI) (Merrigan, 2015).

Purpose.

The stated purpose of the Broward County Veterans Treatment Court is to help U.S. Military Veterans (Merrigan, 2015). In addition, the Broward County Veterans

Treatment Court strives to assist eligible Veterans in obtaining any and all professional services that they may require (Merrigan, 2015). More specifically, the Broward County Veterans Treatment Court has assisted, and continues to assist, U.S. Military Veterans re: (1) drug counseling; (2) mental health counseling; (3) life skills counseling; and (4) medical, dental, employment, and housing assistance where possible (Merrigan, 2015). To this end, the Broward County Veterans Treatment Court coordinates with a host of federal and state agencies, one of which is the United States Department of Veterans Affairs (Merrigan, 2015).

Procedures.

The Chief Judge's memo indicates that at the time of booking at a jail, or at a first appearance, an attempt is made to ascertain if the Defendant is a U.S. Military Veteran or Service Member (Weinstein, 2012). If the Defendant is identified as a U.S. Military Veteran, his or her name is provided to the Broward County Veterans Treatment Court's Veterans Justice Outreach (VJO) Coordinator, who then determines eligibility for services from the United States Department of Veterans Affairs. The United States Department of Veterans Affairs provides the 17th Judicial Circuit Court of Florida with a VJO Coordinator one (1) day per week to develop individualized treatment plans for each U.S. Military Veteran in an effort to alleviate the problems that resulted in the U.S. Military Veteran's arrest. The VJO Coordinator must be at all court hearings and case staffing. There are presently two VJO Coordinators assigned to the Broward County Veterans Treatment Court (*i.e.*, Doctors Del Gado, and Levi) (Merrigan, 2015).

Impact Broward, a local agency, which recruits volunteers to solve community problems, provides vetted mentor services for the U.S. Military Veterans (Merrigan,

2015). Impact Broward is responsible for venting all of its mentors (Merrigan, 2012). Impact Broward's mentors are U.S. Military Veterans who have been assigned to help their fellow U.S. Military Veterans in the Broward County Veterans Treatment Court (Merrigan, 2015).

Once the VJO Coordinator establishes the Defendant's VA eligibility, the Clerk of Courts assigns the matter to county or circuit criminal division, subject to entry of a transfer order to the Broward County Veterans Treatment Court Program. The division judge and the Broward County Veterans Treatment Court Judge must sign a written court order of transfer for any and all cases sent to the Broward County Veterans Treatment Court Program. The Clerk of Courts then designates, after transfer, county cases with the division alpha "MVC," and circuit cases with the division alpha "VF." If the Defendant is terminated from the Broward County Veterans Treatment Court Program, for any reason, the case is transferred to the originally assigned division for further proceedings (Weinstein, 2012).

Eligibility.

To be eligible for entry to the Broward County Veterans Treatment Program, the Defendant must: (1) be a U.S. Military Veteran or active military member as determined by the VJO Coordinator (Merrigan, 2015); and (2) suffer from a military-related illness, traumatic brain injury, substance abuse disorder, or psychological problem (Weinstein, 2012). In addition, the Defendant cannot be charged with a crime under Florida Statute § 776.08 (*i.e.*, treason, murder, manslaughter, sexual battery, carjacking, home invasion, robbery, burglary, arson, kidnapping, aggravated assault, and/or aggravated battery) (Merrigan, 2015). Notwithstanding, Defendants charged with either a felony and/or a

misdemeanor are eligible for participation in the Broward County Veterans Treatment Court Program (Merrigan, 2015). Additional statutory eligibility criterion follows.

Felony pretrial intervention programs.

A Defendant is eligible for a pretrial intervention program if he or she meets the requirements of Florida Statute § 948.08, which provides in relevant part:

(7)(a) Notwithstanding any provision of this section, a person who is charged with a felony, other than a felony listed in s. 948.06(8)(c), and identified as a veteran, as defined in s. 1.01, or servicemember, as defined in s. 250.01, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, is eligible for voluntary admission into a pretrial veterans' treatment intervention program approved by the chief judge of the circuit, upon motion of either party or the court's own motion, except:

1. If a defendant was previously offered admission to a pretrial veterans' treatment intervention program at any time before trial and the defendant rejected that offer on the record, the court may deny the defendant's admission to such a program.

2. If a defendant previously entered a court-ordered veterans' treatment program, the court may deny the defendant's admission into the pretrial veterans' treatment program.

(b) While enrolled in a pretrial intervention program authorized by this subsection, the participant shall be subject to a coordinated strategy developed by a veterans' treatment intervention team. The coordinated strategy should be

modeled after the therapeutic jurisprudence principles and key components in s. 397.334(4), with treatment specific to the needs of servicemembers and veterans. The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but need not be limited to, placement in a treatment program offered by a licensed service provider or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a pretrial veterans' treatment intervention program or other pretrial intervention program. Any person whose charges are dismissed after successful completion of the pretrial veterans' treatment intervention program, if otherwise eligible, may have his or her arrest record of the dismissed charges expunged under s. 943.0585.

(c) At the end of the pretrial intervention period, the court shall consider the recommendation of the treatment program and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program. If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment, which may include treatment programs offered by licensed service providers or jail-based treatment programs, or order that the charges revert to normal channels for prosecution. The court shall dismiss

the charges upon a finding that the defendant has successfully completed the pretrial intervention program.

In conjunction with the aforementioned statute, a transfer to the Broward County Veterans Treatment Court may *not* be ordered until arraignment (Weinstein, 2012). This is to allow the Defendant sufficient time to: (1) consult with counsel; (2) voluntarily agree to enter the Brower County Veterans Treatment Court Program; (3) waive the right to a speedy trial; and (4) review the proposed coordinated strategy while in a pretrial intervention program (Weinstein, 2012). The State of Florida, the Defendant, or the Brower County Veterans Treatment Court may make the motion for transfer to the Brower County Veterans Treatment Court Program (Weinstein, 2012).

Misdemeanor pretrial intervention programs.

A Defendant is eligible for a pretrial intervention program if he or she meets the requirements of Florida Statute § 948.16, which provides in relevant part:

(2)(a) A veteran, as defined in s. 1.01, or servicemember, as defined in s. 250.01, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, and who is charged with a misdemeanor is eligible for voluntary admission into a misdemeanor pretrial veterans' treatment intervention program approved by the chief judge of the circuit, for a period based on the program's requirements and the treatment plan for the offender, upon motion of either party or the court's own motion. However, the court may deny the defendant admission into a misdemeanor pretrial veterans' treatment intervention program if the defendant has previously entered a court-ordered veterans' treatment program.

(b) While enrolled in a pretrial intervention program authorized by this section, the participant shall be subject to a coordinated strategy developed by a veterans' treatment intervention team. The coordinated strategy should be modeled after the therapeutic jurisprudence principles and key components in s. 397.334(4), with treatment specific to the needs of veterans and service members. The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but need not be limited to, placement in a treatment program offered by a licensed service provider or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a misdemeanor pretrial veterans' treatment intervention program or other pretrial intervention program. Any person whose charges are dismissed after successful completion of the misdemeanor pretrial veterans' treatment intervention program, if otherwise eligible, may have his or her arrest record of the dismissed charges expunged under s. 943.0585.

In conjunction with the aforementioned statute, a Defendant may be eligible for a pretrial intervention program for other charges agreed to by the State Attorney (Weinstein, 2012). The State may also object to a case being transferred to the Broward County Veterans Treatment Court, as authorized by Florida Statute § 948.16.

As is the case with felony Defendants, a transfer to the Broward County Veterans Treatment Court may not be ordered until arraignment (Weinstein, 2012). This is to allow the Defendant sufficient time to: (1) consult with counsel; (2) voluntarily agree to enter

the Brower County Veterans Treatment Court Program; (3) waive the right to a speedy trial; and (4) review the proposed coordinated strategy while in a pretrial intervention program (Weinstein, 2012). The State of Florida, the Defendant, or the Brower County Veterans Treatment Court may make the motion for transfer to the Brower County Veterans Treatment Court Program (Weinstein, 2012), and a hearing shall be had with the State, defense counsel (if any), and Defendant present to provide evidence or argument that supports transfer to the Broward County Veterans Treatment Program (Weinstein, 2012).

Felony post adjudicatory program.

In order to be eligible for the Broward County Veterans Treatment Court Felony Post Adjudicatory Program, a Defendant must: (1) be eligible for probation or community control pursuant to Chapter 921 of the Florida Statutes; and (2) be convicted of a criminal offense, and sentenced, pursuant to Chapter 921 of the Florida Statutes, by a division judge (Weinstein, 2012).

A Defendant seeking a downward departure may be transferred to the Broward County Veterans Treatment Court Felony Post Adjudicatory Program if: (1) a plea of guilty or no contest is entered before the division judge; (2) a waiver of right to be sentenced by the division judge is entered on the record; (3) the defendant files a written motion downward departure, as required by and the criminal rules of procedure; and (4) the defendant agrees that, if the motion is denied, the judge assigned to the Broward County Veterans Treatment Court may sentence the Defendant (Weinstein, 2012). However, if a Defendant is placed on probation or community control, he or she shall be supervised as all other Defendants (Weinstein, 2012).

Of note, the number of participants in the Broward County Veterans Treatment Court Program, to include the Felony Post Adjudicatory Program, may be limited subject to funding for community programs, and United States Department of Veterans Affairs Programs (Weinstein, 2012). After a hearing, and with the agreement of the State of Florida, cases not otherwise qualified for the Broward County Veterans Treatment Court Program, may be transferred (Weinstein, 2012). And U.S. Military Veterans that successfully complete the Broward County Veterans Treatment Court Program can have their charges dismissed (Merrigan, 2015).

Statistics.

As of May 30, 2015, there were 264 active cases in the Broward County Veterans Treatment Court (Merrigan, 2015). Of the 264 active cases, 197 U.S. Military Veterans were receiving services, 7 were awaiting services, and 43 were in of need assistance (Merrigan, 2015). Since its inception, 65 U.S. Military Veterans have successfully completed the Broward County Veterans Treatment Program, and have had their felony and/or misdemeanor cases dismissed (Merrigan, 2015). Table 1 reflects these figures. Judge Merrigan (2015) further reported that most misdemeanors are dismissed after 12 months of successful program completion; and, most felonies are dismissed after 18 months of successful program completion.

Table 1. Broward County Veterans Treatment Court

Number of Active Cases In Broward County Veterans Treatment Court	Number of Veterans Receiving Services	Number of Veterans Awaiting Services	Number of Veterans In Need of Services	Veterans Who Have Completed the Program
264	197	7	43	65

Recidivism.

In or around September 2015, Judge Merrigan (2015) reported the recidivism rate of Broward County Veterans Treatment Court Program participants was less than three percent (3%).

Colorado Springs Veterans Court.

On November 6, 2015, the evaluator interviewed the Colorado Springs Veterans Court Coordinator (*i.e.*, Mrs. Kisten Born). Mrs. Born (2015) reported that she is married to a United States Army Soldier, and has a great deal of “real-world military experience.” In combination with Mrs. Born’s answers to the Veterans Treatment Courts Ph.D. Dissertation Questionnaire, attached hereto as *Appendix A*, Mrs. Born provided the evaluator with a the Veteran Trauma Court Participant Guide, attached hereto as *Appendix D*, and a VTC Snapshot, dated October 13, 2015, which is attached hereto as *Appendix E*.

Purpose.

Established on or about December 1, 2009, the Colorado Springs Veterans Court is a state and federally funded court program that, in collaboration with local partners, provides jail diversion services to U.S. Military Veterans with trauma spectrum disorders, who have been charged with lower-level felonies and/or misdemeanors (Born, 2015). However, only with the permission of the El Paso County District Attorney’s Office, are eligible U.S. Military Veterans moved from the traditional courtroom environment into the Colorado Springs Veterans Court, “where they agree to actively engage in treatment and counseling, make regular court appearances, and are carefully supervised” (Born, 2015, p. 2). Colorado Springs Veterans Court Program Staff Members: (1) assist

participating U.S. Military Veterans in accessing mental health and/or substance abuse treatment; and (2) connect U.S. Military Veterans to educational, housing, and employment resources (Born, 2015). Peer support is also frequently available (Born, 2015). Through the Colorado Springs Veteran Court, Born (2015) reports that staff members hope to honor the military service of our U.S. Military Veterans “by assisting them in accessing treatment and services while holding them accountable for their actions” (Born, 2015, p. 2).

Procedures.

Entry into the Colorado Springs Veterans Court is solely by referral (Born, 2015). Referrals can come from many places (*e.g.*, defendants, a defendant’s family member(s), attorneys, judges, jail and probation staff, mental health professionals, and others) (Born, 2015). All requests for participation in the Colorado Springs Veterans Court, along with any and all supporting documentation, to include a peer mentor recommendation drafted by Command Sergeant Major Leo Martinez (Retired), is submitted to the Fourth Judicial District Attorney’s Office for review (Born, 2015). Acceptance into the Colorado Springs Veterans Court Program rests solely with the Fourth Judicial District Attorney’s Office (Born, 2015). According to Born (2015), the Fourth Judicial District’s Deputy District Attorneys are the Colorado Springs Veterans Court Program “Gatekeepers.” If a U.S. Military Veteran is accepted into the Colorado Springs Veterans Court Program and chooses to participate, his/her defense counsel is notified by the Fourth Judicial District Attorney’s Office (Born, 2015).

Eligibility.

Per the Veteran Trauma Court Participant Guide (2015) U.S. Military Veterans, including those persons who are currently serving, and those persons who have been discharged or released from the Armed Forces of the United States, a Reserve Component thereof, or the National Guard, *may* be eligible to participate in Veteran Trauma Court. The Colorado Springs Veterans Court Treatment Program is open to all U.S. Military Veterans regardless of their race, color, national origin, age, disability, sex, marital status, familial status, parental status, religion, sexual orientation, length or location of service, or discharge status (Born, 2015). The following criteria are also considered: (1) whether the U.S. Military Veteran was charged with a lower level felony, and is facing criminal prosecution in the Fourth Judicial District; (2) whether the U.S. Military Veteran experienced trauma related to service in the U.S. Military, which has been previously documented or can be documented; (3) whether the U.S. Military Veteran has been diagnosed with a trauma spectrum disorder; (4) whether the evidence supports the existence of a connection between the military service trauma and the criminal conduct; (5) whether the U.S. Military Veteran exhibits a willingness to actively participate in his or her treatment and recovery, and cooperates fully with the court; (6) whether the U.S. Military Veteran expects to reside in the Colorado Springs Veterans Court's jurisdiction while participating in the program; (7) whether the U.S. Military Veteran agrees to authorize the release of information related to his/her treatment to the Colorado Springs Veterans Court Team Members, according to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule; and (8) whether the U.S. Military Veteran agrees to waive his or her right to a speedy trial during participation in the screening of the Colorado Springs Veterans Court (Born, 2015). Not

surprisingly, according to Born (2015), the Colorado Springs Veterans Court Program is not “suited” for all U.S. Military Veterans.

“Ineligible [U.S. Military V]eterans include violent offenders and those who are currently charged with, or have pled or been found guilty of a felony in which they committed, attempted, conspired, or intended to commit:” (1) a sexual offense; or (2) a felony crime involving a child (Born, 2015, p. 4). For the purposes of the Veteran Trauma Court, a violent offender is a person who: (1) is currently charged with or convicted of an offense during the course of which: (i) the person used or threatened to use a firearm in the course of the crime; (ii) there occurred the death of, or serious bodily injury to any person; (iii) the person is charged with a domestic violence offense that alleges strangulation or is charged with stalking, C.R.S. § 18-9-111(4)(b); and/or (2) has previously been convicted of a felony which: (i) involved the use or threatened use of a firearm in the course of the crime; (ii) there occurred the death of, or serious bodily injury to any person; (iii) included stalking, C.R.S. § 18-9-111(4)(b). Notwithstanding the aforesaid, the Fourth Judicial District Attorney’s Office ultimately “decides which cases will be eligible and reserves the right to reject a [U.S. Military] Veteran’s request for participation” (Born, 2015, p. 4).

Program rules.

To remain in the Colorado Springs Veterans Court Program, U.S. Military Veterans must adhere to the following rules: (1) they must show up for court appearances as required; (2) they must attend and actively participate in all ordered treatment sessions; (3) they must be on time; (4) they must not violate the law; (5) they must dress appropriately for court and treatment sessions; (6) they must be courteous to others; (7)

they must avoid all illegal drugs and/or alcohol activity and use; (8) they must submit to urinalysis and/or breath tests; (9) they must comply with all terms of probation; and (10) they must be honest with the Colorado Springs Veterans Treatment Court Team (Born, 2015).

Statistics.

Since the Colorado Springs Veterans Treatment Court was created, on or about December 1, 2009, it has docketed and/or heard approximately 289 cases (Born, 2015). Of those 289 cases, 159 U.S. Military Veterans have graduated from the Colorado Springs Veterans Treatment Court Program, and 35 U.S. Military Veterans were either removed or opted out (Born, 2015). As of October 13, 2015, there were 88 U.S. Military Veterans enrolled in the Colorado Springs Veterans Treatment Court Program (Born, 2015). This leaves an unexplained discrepancy of approximately seven (7) U.S. Military Veterans who were unaccounted for. Roughly 29 U.S. Military Veterans are currently awaiting notice re their acceptance into the Colorado Springs Veterans Treatment Court Program (Born, 2015). Table 2 reflects these figures.

Table 2. Colorado Springs VTC Statistics from December 2009 to October 2015

Number of Cases Handled Since the Program's Inception	Number of Veterans Who Graduated	Number of Veterans Who Were Removed or Opted Out	Number of Veterans Currently in the Program	Number of Veterans Unaccounted For	Percentage of Veterans Who Graduated
289	159	35	88	7	46%

Recidivism.

Born (2015) reported that the recidivism rate of the Colorado Springs Veterans Treatment Court is “very low.” The recidivism and/or re-arrest rate of the Colorado Springs Veterans Treatment Court is, however, not tracked (Born, 2015). Born (2015) admits that this is a “work in progress.” Notwithstanding, Born (2015) reports that there is more success than “what you see on paper.”

Miscellaneous.

During a candid interview on November 6, 2015, Born reported that the procedural rules of the Colorado Springs Veterans Treatment Court are fairly relaxed. That is to say, the Court utilizes its unique ability to talk directly to U.S. Military Veterans, and frequently holds sidebars with them in order to prevent embarrassment (Born, 2015). Moreover, many hearings are held for the purpose of reviewing the U.S. Military Veterans’ progress in the Colorado Springs Veterans Treatment Court Program (Born, 2015). Hearings for the sole purpose of discussing “legal matters” are rare (Born, 2015).

In summary, Born (2015) argues that the Colorado Springs Veterans Treatment Court Program is “working.” A best practice includes getting the U.S. Military Veteran into treatment as quickly as possible (Born, 2015). However, “[t]he legal system gets in the way” (Born, 2015). Born (2015) further believes that the Colorado Springs Veterans Treatment Court Program would be more successful if public awareness of the same were substantially increased by way of posters, brochures, interest forms, etc. (Born, 2015). Born also commented that continued funding is key; and, without the same, the future of the Colorado Springs Veterans Treatment Court Program is always at risk (Born, 2015). However, with new VTCs popping up around the State, Born (2015) believes that

therapeutic justice is taking hold in Colorado and that jurisdictional issues, to include changes in venue, will become a reality in time.

Finally, while some have complained that there are a substantial number of U.S. Military Veterans in jail, especially when compared to the relatively small number of U.S. Military Veterans who have been accepted into the Colorado Springs Veterans Treatment Court Program, Born (2015) contends that not all U.S. Military Veterans meet the Colorado Springs Veterans Treatment Court Program's traumatic qualifications (*i.e.*, they do not suffer from mental health issues related to military service). However, the Colorado Springs Veteran Trauma Court Participant Guide (Born, 2015) lists trauma related to service in the U.S. Military as criteria to be "considered." The same is *not* listed as an eligibility requirement. The discrepancy does, therefore, raise a legitimate issue for future study and/or consideration.

Anchorage, Alaska Veterans Court.

On or about August 24, 2015, the evaluator interviewed the Anchorage, Alaska Veterans Court Project Coordinator (*i.e.*, Ms. Desiree Sang). In combination with Ms. Sang's answers to the Veterans Treatment Courts Ph.D. Dissertation Questionnaire, attached hereto as *Appendix A*, Ms. Sang provided the evaluator with a 2012, article written by Alaska Superior Court Judge Jack W. Smith (*i.e.*, The Anchorage, Alaska Veterans Court and Recidivism: July 6, 2004 - December 31, 2010). Information gained from Judge Smith's article has also been included in this section.

History.

The Anchorage, Alaska Veterans Court is a specialized court designed to facilitate the rehabilitation of eligible U.S. Military Veterans who are charged with criminal

offenses (Sang, 2015). The Anchorage, Anchorage, Alaska Veterans Court was started in 2004, by District Court Judges Sigurd Murphy, now retired, and Jack W. Smith, who is now an Alaska Superior Court Judge (Sang, 2015). The Anchorage, Alaska Veterans Court was formed in response to the number of U.S. Military Veterans appearing in the Alaska District Court, who were suffering from medical, behavioral health, or other socio-economic issues associated with prior military service (Sang, 2015).

Per Sang (2015), the mission of the Anchorage, Alaska Veterans Court is to divert U.S. Military Veterans with behavior health conditions, who are charged with criminal offenses, into VA rehabilitation programs. This is done in an effort to prevent future contacts with the criminal justice system (Sang, 2015). Smith (2012, p. 93) further clarifies: “In 2004, the [Anchorage,] Alaska Veterans Court – the first known [V]eterans court in the country – was established in an effort to reduce the number of criminal cases involving former members of the United States military.”

The Anchorage, Alaska Veterans Court has operated continuously since 2004 (Smith, 2012). During the transition following the retirement of Judge Murphy, and following Judge Smith’s appointment to the Alaska Superior Court, a number of district court judges covered the Anchorage, Alaska Veterans Court (Smith, 2012). Currently, the Anchorage, Alaska Veterans Court is presided over by Judge David R. Wallace (Smith, 2012).

Purpose.

When asked to provide a detailed description of the Anchorage, Alaska Veterans Court’s published goals, purpose(s), etc., Sang (2015) reported that the goals and purposes of the Anchorage, Alaska Veterans Court are: (1) to promote public safety; (2)

to reduce incarceration of offenders who are U.S. Military Veterans, and promote their well-being in the community; (3) to reduce repeated contacts with the criminal justice system among our nation's U.S. Military Veterans; (4) to facilitate access to VA resources; (5) to aid U.S. Military Veterans with addressing problems that led to their criminal justice contact; and (6) to promote treatment adherence for U.S. Military Veterans through ongoing judicial monitoring.

It was further reported that the Anchorage, Alaska Veterans Court collaborates with prosecutors, defense attorneys, and the Department of Veterans Affairs (VA), in an effort to link eligible U.S. Military Veterans with VA housing, employment, rehabilitation, and treatment services (Sang, 2015). Once U.S. Military Veterans have been successfully linked to needed services, the Anchorage, Alaska Veterans Court provides judicial monitoring, coupled with alternative sentencing plea agreements to help eligible U.S. Military Veterans succeed with their own rehabilitation, and return to productive, and law-abiding lifestyles, thereby, reducing crime and its costs to society (Sang, 2015). Moreover, the Anchorage, Alaska Veterans Court provides participants with the ability to receive multi-disciplinary treatment and assistance for issues contributing to their involvement in the criminal justice system (Smith, 2012).

Procedures.

Defendants facing misdemeanor charges filed by the Municipality of Anchorage, who are U.S. Military Veterans under federal law, can opt into the Anchorage, Alaska Veterans Court (Smith, 2012). Any Defendant interested in the Alaska, Anchorage Veterans Court is referred to the first Anchorage, Alaska Veterans Court hearing

following his or her arraignment (Smith, 2012). “Those individuals observe the Veterans Court proceedings and are advised of the procedures to opt in” (Smith, 2012, p. 99).

If a Defendant is interested in opting into the Anchorage, Alaska Veterans Court, an appointment is made, either in or out of custody, with representatives of the VA, to determine his or her eligibility for benefits (Smith, 2012). If the Defendant is eligible, the VA sets appointments for: (1) substance abuse; (2) mental health; (3) physical examination, and/or (4) other resources as needed (Smith, 2012). “A future court date is also set” (Smith, 2012, p. 100).

Once the various providers have completed their evaluations of the U.S. Military Veteran, a recommended treatment plan is provided to the Defendant, his or her counsel, the municipal prosecutor, and the court (Smith, 2012). Based on the current charges, the Defendant’s criminal history, and the proposed treatment, the prosecutor prepares two proposed sentences for the Defendant to review (Smith, 2012). One of the proposed sentences represents what the prosecutor will seek if the Defendant declines treatment, or enters treatment but fails to complete that recommended treatment (Smith, 2012). The second proposed sentence reflects what will be imposed if the Defendant embarks upon, and successfully completes, the treatment plan (Smith, 2012).

The Defendant and his or her counsel, if any, are provided ample time to review the proposed treatment plan, and the alternative sentences (Smith, 2012). The Defendant can also opt to return to regular court (Smith, 2012). If the Defendant chooses to enter the Anchorage, Alaska Veterans Court, he or she *must* enter a plea to the charges (Smith, 2012). “The treatment plan is then implemented, and the [D]efendant is scheduled for

periodic follow-up court proceedings to monitor his or her progress” (Smith, 2012, p. 100).

U.S. Military Veteran participants are required to attend Anchorage, Alaska Veterans Court hearings, “until they establish consistent attendance at the scheduled VA meetings and treatment appointments. Once a record of consistent compliance is developed, absent objection by the prosecutor or the VA representative, attendance at Veterans Court hearings may be set further apart in recognition of increased trust in the [V]eteran” (Smith, 2012, p. 100). Should the U.S. Military Veteran have “minor attendance or compliance problems during treatment, sanctions including placement back to earlier phases of treatment, restarting the treatment, or even brief incarceration may be required” (Smith, 2012, p. 100). At any time, a Defendant may opt out of the Anchorage, Alaska Veterans Court Program, and request to return to a traditional court (Smith, 2012).

Eligibility.

With regard to eligibility requirements Sang (2015) informed that a U.S. Military Veteran: (1) must reside in the Municipality of Anchorage, Alaska; (2) must be eligible for VA services, as defined by federal law, and confirmed by the VA; and (3) must be charged with a misdemeanor criminal offense. U.S. Military Veterans charged with a felony offense are currently being considered on a case-by-case basis only, in order to ensure public safety (Sang, 2015). In addition, eligible U.S. Military Veterans must voluntarily agree to waive their right to a speedy trial during the time that they participate in the Anchorage, Alaska Veterans Court (Sang, 2015). U.S. Military Veterans must also have no additional cases pending in either the district and/or superior court(s) (Sang,

2015). Finally, all open cases must be heard at Anchorage, Alaska Veterans Court hearings, unless the parties mutually decide otherwise (Sang, 2015).

When all of the eligibility requirements have been established, the Anchorage, Alaska Veterans Court Judge, along with the Anchorage, Alaska Veterans Court Team, makes a decision and/or recommendation as to whether a U.S. Military Veteran qualifies for participation in the Anchorage, Alaska Veterans Court Program (Sang, 2015).

Notwithstanding the same, Alaska's prosecutors make the final decision with regard to a U.S. Military Veteran's entrance into the Anchorage, Alaska Veterans Court Program (Sang, 2015).

Statistics.

From July 2004 through December 2010, of the 147 U.S. Military Veterans who *observed* the Anchorage, Alaska Veterans Court, 133 were found to be eligible for the same (Smith, 2012). Seventy-four (74) of the 133 eligible U.S. Military Veterans opted in; and, out of those, 38 graduated (Smith, 2012). The graduation rate was, therefore, slightly over fifty-one (51%). Table 3 reflects these figures. Of the 147 U.S. Military Veterans who observed the Anchorage, Alaska Veterans Court, 137 were male, and 10 were female.

Table 3. Anchorage, Alaska Veterans Court Statistics from July 2004, through December 2010

Number of Individuals Observing Veterans Court	Number of Eligible Veterans	Number of Veterans Who Opted In	Number of Veterans Who Graduated	Percentage of Veterans Who Graduated
147	133	74	38	51%

Recidivism.

Different Crimes.

Smith (2015) reports ten individuals who were exposed to or utilized the Anchorage, Alaska Veterans Court on two separate occasions for different crimes. Looking at the records of these ten individuals reveals that two of those individuals failed to complete the Anchorage, Alaska Veterans Court on their first attempt, but graduated after re-entering the program based upon the second crime (Smith, 2012). Two graduated from the Anchorage, Alaska Veterans Court the first time, but returned based on new crimes (Smith, 2012). “One of these elected to re-enter Veterans Court and failed to complete it the second time. The other opted to not use Veterans Court for the second crime” (Smith, 2012, p. 105). Four individuals elected to not use the Anchorage, Alaska Veterans Court for their first offense but chose to try the treatment plan when a new offense occurred and then graduated (Smith, 2012). Of these four individuals, as of 2012, two reoffended after graduation (Smith, 2012). The other two had not reoffended as of 2012 (Smith, 2012). “Finally, two individuals tried and failed to complete [Anchorage, Alaska] Veterans Court on two separate occasions” (Smith, 2012, p. 106).

Similar crimes.

Smith (2015, p. 107) defines recidivism “as a new criminal offense or a formal petition to revoke probation within one to three years of: (1) graduation from Veterans Court; (2) failure to complete Veterans Court; or (3) electing not to enter Veterans Court. Overall, seventeen of the thirty-eight graduates of Veterans Court reoffended within three years. That recidivism rate, 45%, is slightly better than the 50.4% recidivism rate for Alaska.”

Smith (2012, p. 108) further reports that “[e]xamining the total number of individuals who entered but did not complete the [Anchorage, Alaska] Veterans Court program provides an interesting observation that warrants further study.” Indeed, “[l]ess than 31% of those who entered the [Anchorage, Alaska] Veterans Court but failed to complete the treatment plan reoffended (11 of 36)” (Smith, 2012, p. 108). Smith (2012, p. 108) hypothesizes that “[o]ne possible explanation for this lower recidivism rate is that [U.S. Military V]eterans with the greatest number or severity of problems stay in treatment, while those with fewer problems choose to opt out and resolve the case more quickly.”

Of those individuals who were eligible for the Anchorage, Alaska Veterans Court but chose not to enter the program, there was a recidivism rate of 41% (24 of 59) (Smith, 2012). According to Smith (2012, p. 108) “[a] possible explanation for the lower recidivism rate, as compared to [Anchorage, Alaska] Veterans Court graduates, is that individuals choosing not to enter [the Anchorage, Alaska] Veterans Court were charged with relatively minor offenses.” Of the entire spectrum of individuals who were eligible for the Anchorage, Alaska Veterans Court, whether they chose to participate or not, there was a recidivism rate of 39% (52 of 133), which was substantially below the State of Alaska’s overall average of 50.4% (Smith, 2012). Smith (2012, p. 108) notes that “[i]t is unclear whether the fact that all of these individuals were [U.S. Military V]eterans would account for this difference.” Table 4 reflects these findings.

Sang (2015) reported that the Anchorage, Alaska Veterans Court began collecting data with regard to recidivism in 2013. Since that time no U.S. Military Veterans, who

have completed the Anchorage, Alaska Veterans Court Program, have recommitted (Sang, 2015).

Table 4. Anchorage Veterans Court Recidivism Rates Among Eligible & Non-Eligible Convicts

Percentage of <i>Eligible</i> Veterans Who Recommited a Crime	Percentage of All Convicts (<i>i.e.</i> , Veterans and Non-Veterans) Who Recommited a Crime	Percentage of Eligible <i>and</i> Participating Veterans Who Recommited a Crime
39%	50.4%	0.0%

Miscellaneous.

On a more personal note, Sang (2015) informed that, in her opinion, the Anchorage, Alaska Veterans Court has a good collaboration of entities, that all want to help U.S. Military Veterans get a second chance. Sang (2015), further reports that the Anchorage, Alaska Veterans Court is presently working at capacity with 25 participants who have engaged in one or more of the services, substance abuse, anger management, mental health, MRT, and co-occurring treatment, all provided by the VA, Vet Center, and/or the Anchorage, Alaska Veterans Court. When asked whether she would recommend participation in the Anchorage, Alaska Veterans Court to family members and/or friends who are U.S. Military Veterans, Sang (2015) indicated that she “would recommend at a minimum to observe the court.”

Unanticipated Findings

1. In each of the three VTCs examined, the District Attorney’s Office plays a significant role in participant selection. This was, perhaps, most notable in the Colorado Springs Veterans Treatment Court, where the Fourth Judicial District Attorney’s Office ultimately decides whether U.S. Military Veterans may enter the Colorado Springs

Veterans Treatment Court Program. Indeed, the Fourth District's Deputy District Attorneys are the "Gatekeepers" (*i.e.*, the final say as to whether a U.S. Military Veteran is admitted into the Colorado Springs Veterans Treatment Court Program).

2. The Colorado Springs Veterans Treatment Court requires U.S. Military Veterans to enter a guilty plea before they are allowed to participate in the Colorado Springs Veterans Treatment Court Program; whereupon, a conviction *will* be entered. To the contrary, all criminal charges are dismissed upon a U.S. Military Veteran's successful completion and/or graduation from the Broward County Veterans Treatment Program.

3. The average length of time that U.S. Military Veterans can expect to be enrolled in each of the VTC programs examined is one year or more. This is a significantly longer period of time than the standard jail sentence, if any, given to first time offenders for misdemeanors. As a consequence, there is little incentive for U.S. Military Veterans to apply for and/or enroll in VTC Programs, especially, if they are required to enter a guilty plea before doing so.⁶

4. Despite the fact that the VTCs examined have been in existence for some time, they are only now beginning to record their statistics, recidivism rates, etc. Moreover, the recidivism rates that were calculated and/or obtained by the VTCs examined were *not* significantly different and/or lower than the recidivism rates of similarly situated traditional courts.

5. A general lack of standardization was observed amongst the VTCs examined. Indeed, while some commonalities were observed amongst the examined VTCs, each of

⁶ "I see this a lot in other specialty courts . . . I think it should be something to research & consider as a risk of specialty courts and work toward changing that in say National Key Element" (A. Tucker, personal communication, February 4, 2016).

the VTCs examined had a unique program (*e.g.*, different entrance criteria and/or eligibility requirements, different goals and/or articulated purposes, different recording mechanisms with regard to VTC statistics, recidivism, etc.).

Summary

The evaluative methodology model was employed to ascertain: (1) whether VTCs are meeting their articulated and/or established goals; and (2) the effectiveness of VTCs with regard to their intended clients (*i.e.*, U.S. Military Veterans). Data was collected from three operating VTCs (*e.g.*, interviews, publications, public records, websites, etc.). The research informs: (1) an element of pretextualism exists with regard to VTCs; (2) the intentions of VTC judges are indeed noble; and (3) while VTCs are beginning to realize their intended goals (*i.e.*, they are generally meeting the needs of a select group of U.S. Military Veterans), their procedures are far from standardized, and their statistical recording mechanisms are in need of improvement.

Each of the three VTCs examined was more than cooperative in providing the information requested by the evaluator. To be sure, the VTC personnel interviewed remain more than anxious to learn how their VTCs are doing when compared to other VTCs across the Nation and welcomed the opportunity to have the evaluator examine their respective programs and provide an outside perspective.

Chapter 5: Discussion

As an aide to the reader, the final chapter of this dissertation provides a brief overview of the study, including a statement of the problem and the major methods involved. The majority of the chapter is, however, devoted to a summary and discussion of the two study hypothesis, and to a discussion of the accomplishments and inner workings of three VTCs in relation to their articulated and/or intended goals.

Summary of the Study Problem and Methodology

As was previously indicated above, the intended goals of VTCs are consistent with what drove the establishment of Drug Courts and Mental Health Courts in the '90s. That is, a recognition that the traditional criminal justice system is geared toward punitive court dispositions; not the unique characteristics of addicts and/or mental health defendants. Indeed, U.S. Military Veterans returning from Iraq and Afghanistan have a highly unique and challenging set of medical, psychological, neurological, and social adjustment problems.

Like onto their forbearers, VTCs were created to: (1) address these unique issues; and (2) where possible, avoid punishing U.S. Military Veterans for crimes, which may have been committed as a direct result of their illnesses (*e.g.*, PTSD and/or TBIs). However, little research has been accomplished to ascertain whether VTCs are accomplishing their intended goals. Indeed, while many programs and/or organizations have been created to assist U.S. Military Veterans (*e.g.*, The U.S. Department of Veterans Affairs, the Wounded Warrior Project, etc.), many have arguably fallen short of their

intended goals. That is to say, while their intentions are almost always good, one is left to wonder whether some level of pretextualism exists.

To that end, a program evaluation, utilizing the evaluative methodology model, was employed to ascertain: (1) whether VTCs are meeting their articulated and/or established goals; and (2) the effectiveness of VTCs with regard to their intended clients (*i.e.*, U.S. Military Veterans). To ascertain the same, data was collected from three operating VTCs (*e.g.*, publications, public records, websites, etc.). As a result, the program evaluation informs: (1) an element of pretextualism does exist with regard to VTCs; (2) the intentions of VTC judges are genuinely noble; and (3) VTCs are realizing their intended goals more often than not (*i.e.*, they are generally meeting the needs of some, oftentimes select, U.S. Military Veterans).

As previously outlined, the program evaluation (*i.e.*, the qualitative study) was designed to analyze whether three VTCs: (1) are achieving their articulated and/or intended goals; (2) are “effective” with respect to the same; and (3) exhibit elements of pretextualism. The presentation of data gathered was further intended to enable court administrators, judges, treatment providers, and others in the criminal justice system to reflect upon their articulated and/or intended goals, and make appropriate adjustments where deemed necessary.

The program evaluation is particularly important because it establishes: (1) that an oftentimes select group of U.S. Military Veterans are presently receiving adequate services and/or treatment that is being offered/provided by VTCs; (2) how and/or when U.S. Military Veterans qualify for said services; and (3) that all U.S. Military Veterans are not afforded the same opportunities that are offered by most VTCs. In particular, the

research established that U.S. Military Veterans are oftentimes “cherry-picked” by prosecutors—prosecutors who are programmed to accept cases that, and/or admit U.S. Military Veterans who will yield program successes.

Review and Discussion of the Main Conclusions of the Study

Two hypotheses were formulated for this study: (1) an element of pretextualism exists with regard to VTCs; and (2) VTCs realize their intended goals more often than not (*i.e.*, they are generally meeting the needs of some U.S. Military Veterans). The results lent some support to both hypotheses. For example, the VTCs eligibility requirements, which must be met in order for a U.S. Military Veteran to participate in a VTC program, significantly reduces the number of U.S. Military Veterans who can take advantage of numerous opportunities offered by the same (*i.e.*, a level of pretextualism *does* exist with respect to VTCs). Re the second hypothesis, the research reveals VTCs are generally realizing their articulated goals, however, recidivism rates of some VTCs are loosely kept—calling into question the extremely high success rates, which were reported.

In the following section of this chapter, the findings are reviewed for each hypothesis followed by a discussion of these findings, and an analysis of the implications of these findings for future studies. Several suggestions are made concerning the relevance of these findings for policy and practice in VTCs across the United States of America.

Hypothesis One

The first hypothesis argued that an element of pretextualism exists with respect to the Nation’s VTCs. It does.

Conclusions.

The first hypothesis was fully supported by the research, which was obtained from three separate and unrelated VTCs across the Nation. Particularly noteworthy with respect to the same is the fact that prosecutors are commonly the “Gatekeepers” of VTCs, and, as such, ultimately determine which U.S. Military Veterans are eligible for participation in VTC programs. In combination with relatively restrictive eligibility requirements, only those U.S. Military Veterans who are highly likely to succeed were admitted to the VTC programs examined.

Discussion and implications.

Pretextualism is apparent when a government entity publicly offers as justification a legitimate objective for an action that merely serves to mask its true purpose, which is frequently illegitimate. In this case, it was hypothesized that, while the legitimate objectives of VTCs (*i.e.*, to assist U.S. Military Veterans who have been charged with one or more criminal offense(s)) are noble, the strict eligibility requirements established by VTCs chill the full potential of the same, thereby generating astonishing statistics, which otherwise suggest that VTCs are extremely successful (*i.e.*, that the needs of U.S. Military Veterans who have been charged with one or more criminal offenses are being met). It appears to the average taxpayer, therefore, that VTCs are helping all U.S. Military Veterans when in actuality VTCs are only assisting and/or helping a very select and arguably cherry-picked group of U.S. Military Veterans who almost always succeed. Thus, an element of pretextualism is apparent in VTCs across the Nation.

Furthermore, it should be noted that this study closely examined the arguably stringent eligibility requirements established by three separate VTCs across the Nation. Table 5 presents a sampling of the same. Perhaps, most surprising is the fact that two of

the three VTCs examined require U.S. Military Veterans to plead guilty to the criminal charges with which they have been charged—before they are allowed to enter a VTC program. This, combined with the time commitment associated with most VTC programs (*i.e.*, one year or more), resulted in a number of U.S. Military Veterans taking their chances in regular court, as opposed to subjecting themselves to a guilty plea, and a weekly appearance in a VTC, for 52 weeks or more. First-time offenders were especially shy re VTCs, given the surprisingly good offers provided by prosecutors. Also surprising was the fact that VTC prosecutors have the most significant, if not *the* final say, as to whether U.S. Military Veterans are eligible for entry into the various VTC programs examined.⁷

The literature examined failed to articulate the significant role prosecutors play in determining which, if any, U.S. Military Veterans are allowed admittance to VTC programs. This is notable given the fact that many young prosecutors have little to no experience: (1) working with U.S. Military Veterans; and/or (2) addressing the unique needs that a majority of today’s U.S. Military Veterans exhibit (*e.g.*, PTSD, TBI, etc.).

Table 5. VTC Eligibility Requirements

	Veteran Must be Eligible for VA Services	Veteran Must Suffer From a Combat Related Mental Illness and/or Injury	Veteran Must Enter a Guilty Plea to Criminal Charges	Prosecutor Makes Final Decision Re VTC Program Eligibility
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⁷ As a criminal defense attorney in Colorado Springs, Colorado, the evaluator experienced first-hand the gatekeeping authority and/or power that VTC prosecutors possess re the Colorado Springs Veterans Treatment Court Program.

Broward County Veterans Treatment Court	X	X		
Colorado Springs Veteran Treatment Court	X	X	X	X
Anchorage, Alaska Veterans Court	X		X	X

The findings of this study further indicate, as other studies have also done, that VTCs are well-received by their respective communities, and U.S. Military Veterans who are both eligible and willing to participate in the same. Notwithstanding, there is ample room for improvement amongst the VTCs, especially, in so far as eligibility requirements, and gatekeepers are concerned. For example, the Broward County Veterans Treatment Court does not require its U.S. Military Veteran participants to enter guilty pleas to the criminal charges that have been levied upon them before granting them entry into their VTC program. Not only does this provide U.S. Military Veterans with a tangible incentive to seek admission to the Broward County Veterans Treatment Court Program; but, it encourages U.S. Military Veterans to obtain the treatment (*e.g.*, mental, physical, and spiritual) that they may need to secure both a productive and peaceful existence among their fellow men—men who have not experienced the PTSD-causing events that many U.S. Military Veterans have, unfortunately, been forced to endure.

Finally, a potentially important incidental finding of this study, which was only parenthetically reported on in this dissertation, is that precious little statistical data has been collected and tabulated re the recidivism rates of VTC program participants. To this

end, each of the three VTCs examined: (1) acknowledged the need to track recidivism more formally; and (2) has recently begun the process of doing the same. Limited findings and small staffs are, however, antecedent issues, which must also be addressed.

Hypothesis Two

The second hypothesis argued that VTCs realize their intended goals more often than not (*i.e.*, they are generally meeting the needs of some U.S. Military Veterans). They do.

Conclusions.

The second hypothesis was also fully supported by the data, which was obtained from three separate and unrelated VTCs across the Nation. Particularly noteworthy with respect to the second hypothesis is the fact that VTCs are generally meeting the needs of U.S. Military Veterans who: (1) meet all established eligibility requirements; and (2) are willing to commit to participation in the VTCs. However, as a direct result of the fairly stringent eligibility requirements of VTCs, many U.S. Military Veterans, who may otherwise benefit from a VTC program, are frequently turned away and/or seek out other alternatives.

Discussions and implications.

Broward County Veterans Treatment Court.

As was previously reported, the “Broward County Veterans [Treatment] Court is a voluntary 12-18 month program designed for [U.S. Military Veterans] who have served in the U.S. Armed Forces and are currently experiencing legal problems due to suffering from behavioral, mental health, or substance abuse disorders” (17th Judicial Circuit Court of Florida, 2012, para. 3). Judge Merrigan (2015) further clarified that the stated purpose

of the Broward County Veterans Treatment Court is to “help [U.S. Military] Veterans.” That is exactly what the Broward County Veterans Treatment Court is doing.

The Broward County Veterans Treatment Court informed that, since its inception, 65 U.S. Military Veterans have successfully completed the Broward County Veterans Treatment Program, and have had their felony and/or misdemeanor cases dismissed (Merrigan, 2015). Moreover, and despite the lack of agency records, in or around September 2015, Judge Merrigan (2015) reported the recidivism rate of Broward County Veterans Treatment Court Program participants was less than three percent (3%) (*i.e.*, approximately two (2) out of 64 graduates of the Broward County Veterans Treatment Program reoffended post program completion ($64 \times .03 = 1.95$)).

Colorado Springs Veterans Court.

Regarding its articulated goals, the Colorado Springs Veterans Court is a state and federally funded court program that, in collaboration with local partners, provides jail diversion services to U.S. Military Veterans with trauma spectrum disorders, who have been charged with lower-level felonies and/or misdemeanors (Born, 2015). Of the select few that are admitted to the Colorado Springs Veterans Court, Born (2015) reported that the majority of them do not reoffend post-graduation.

Since the Colorado Springs Veterans Court was created, on or about December 1, 2009, it has docketed and/or heard approximately 289 cases (Born, 2015). Of those 289 cases, 159 U.S. Military Veterans have graduated from the Colorado Springs Veterans Court Program, and 35 U.S. Military Veterans were either removed or opted out (Born, 2015). More to the point, of the 159 participants who graduated, Born (2015) reported that the recidivism rate of the Colorado Springs Veterans Court is “very low.” The

recidivism and/or re-arrest rate of the Colorado Springs Veterans Treatment Court is, however, not currently being tracked (Born, 2015).

Anchorage, Alaska Veterans Court.

The articulated goals and purposes of the Anchorage, Alaska Veterans Court are: (1) to promote public safety; (2) to reduce incarceration of offenders who are U.S. Military Veterans, and promote their well-being in the community; (3) to reduce repeated contacts with the criminal justice system among our nation's U.S. Military Veterans; (4) to facilitate access to VA resources; (5) to aid U.S. Military Veterans with addressing problems that led to their criminal justice contact; and (6) to promote treatment adherence for U.S. Military Veterans through ongoing judicial monitoring. In addition, it was reported that the Anchorage, Alaska Veterans Court collaborates with prosecutors, defense attorneys, and the VA, in an effort to link eligible U.S. Military Veterans with VA housing, employment, rehabilitation, and treatment services (Sang, 2015).

With respect to the aforementioned goals and purposes, the research reveals the Anchorage, Alaska Veterans Court: (1) promotes public safety; (2) attempts to reduce incarceration of offenders who are U.S. Military Veterans, while simultaneously promoting their well-being in the community; (3) strives to reduce repeated contacts with the criminal justice system among our Nation's U.S. Veterans; (4) facilitates access to VA resources; (5) aids U.S. Military Veterans with problems that led to their criminal justice contact; and (6) promotes treatment adherence for U.S. Military Veterans through ongoing judicial monitoring (Sang, 2015). In short, the Anchorage, Alaska Veterans Court Program is generally meeting and/or achieving its articulated goals.

While the Anchorage, Alaska Veterans Court is, in fact, striving to reduce repeated contacts with the criminal justice system among our Nation's U.S. Military Veterans, Sang (2015) reported that the Anchorage, Alaska Veterans Court only began collecting data with regard to recidivism in 2013. Since that time none of the U.S. Military Veterans, who have completed the Anchorage, Alaska Veterans Court Program, have recommitted (Sang, 2015). This results in a highly successful, although not entirely accurate recidivism rate of zero percent (0%) ($y \times 0 = 0\%$, where "y" represents the number of U.S. Military Veterans who have graduated from the Anchorage, Alaska Veterans Court Program since 2013, and "0" represents the number of U.S. Military Veterans who have recommitted a crime post-Anchorage, Alaska Veterans Court Program graduation).

As a consequence, of the Anchorage, Alaska Veterans Court's relatively recent collection of data re recidivism, etc., it is recommended that further studies with regard to the same be conducted in the future.

Overall Concluding Remarks and Recommendations

Veterans Treatment Courts were created to address the special needs of U.S. Military Veterans. Yet, studies on VTCs have given only marginal consideration to whether VTCs are reaching their intended goals, and/or purposes. Moreover, speculation abounds as to whether there is an element of pretextualism re VTCs, and VTC participant selection. That is to say, scholars are concerned that VTCs have been cherry-picking program participants, with an eye toward achieving successful statistics, recidivism rates, etc., while neglecting the needs of many would-be participants (*e.g.*, U.S. Military

Veterans who may not be willing to enter a guilty plea, U.S. Military Veterans who may not suffer from a trauma related injury and/or illness, etc.).

This study demonstrates that VTCs are meeting and/or surpassing their articulated goals and/or purposes—given restrictive eligibility requirements, and despite the fact that prosecutors have a significant say, if not the final say, with regard to VTC participant admission. Furthermore, having taken a closer look at the eligibility requirements for VTC program participation, an element of pretextualism, however slight, *is* apparent. Indeed, the research informs: (1) an element of pretextualism exists with regard to VTCs; (2) the intentions of VTC judges are noble; and (3) VTCs realize their intended goals more often than not (*i.e.*, they are generally meeting the needs of U.S. Military Veterans).

The following general lessons can be drawn from this study for further research:

1. Qualitative research efforts should focus on collecting personal accounts of VTC program participants, and on transforming these into quantitative statistics that will shed further light on the successfulness, or lack thereof, of various VTC programs.

2. There are also a number of potential implications for policy and practice that merit consideration. A predominant view amongst U.S. Military Veterans may be that: (1) the eligibility requirements for VTC participation are too stringent; and (2) there is not enough incentive for U.S. Military Veterans to enter a guilty plea, and seek admission to a VTC, when they can get a better deal in the regular court. This study finds strong support for the fact these issues are, or can be, determining factors re the ultra-low recidivism rates obtained by way of the study.

In light of the aforesaid, the following suggestions are made:

1. The entry of a guilty plea should not be an eligibility requirement for VTC program participation. Indeed, the dismissal of all criminal charges, following successful VTC program completion, provides an excellent incentive for treatment, and active program participation. To this end, the Broward County Veterans Treatment Court has set the bar.

2. Prosecutors should not be the “Gatekeepers” of VTCs. That is to say, prosecutors are part of a bigger team, whose members should have an equal say as to who gains admission to VTC programs. Consideration should also be given to whether the recommendations of VTC judges should be given greater consideration than the recommendations of other VTC team members.

3. In order to justify their continued existence, qualify for grants, funding, etc., VTCs must take seriously their responsibility to closely track their programs’ successes and failures (*i.e.*, metrics), especially, in so far as recidivism rates are concerned. To this end, the VTC Snapshot (Born, 2015) provided by the Colorado Springs Veterans Treatment Court, and attached hereto as Appendix E, is a move in the correct direction.

4. Serious consideration should be given as to whether U.S. Military Veterans *must* suffer from a combat-related mental illness and/or injury in order to gain admission to a VTC program. Indeed, many U.S. Military Veterans, who do not suffer from such illnesses, would also benefit from VTC programs. Although a U.S. Military Veteran does not suffer from a combat-related mental illness, such as PTSD or TBI, he/she belongs to a unique community of individuals, who have endured lifetime events that the general population has not experienced. As a consequence, they too can benefit from the programs offered by VTCs.

Limitations of the Study

There are several limitations to this study that merit attention:

1. The study relied entirely on reports from VTC Coordinators and VTC Judges, and it was not possible to check the veracity of their declarations against other measures (*e.g.*, the reports, feelings, etc. of U.S. Military Veterans). Reliance on self-reports can be problematic, and may threaten the validity of the findings. To be sure, it is possible that the participants were biased in their replies, and that they may have felt uncomfortable in replying honestly to certain questions.

2. The study examined three VTCs from three uniquely separate and distinct geographic regions. Due to the particularities and varying standards found in each of the three regions' VTCs, care must be taken in generalizing the findings of this study beyond the regional VTCs that were covered by this study. Indeed, the study found that there is a lack of standardization amongst VTCs in general.

3. While the study considered the arguably scant VTC recidivism rates that were available, each of the VTCs has only recently begun to collect data and officially record the same. Apart from the obvious problems of reliability, this also has the disadvantage of making it nearly impossible to draw comparisons in terms of future recidivism rates, and past recidivism rates. That is to say, it will likely take years for VTCs to reach a point where the measurement of progress can and/or will occur.

4. The study considered the articulated goals and/or purposes of three VTCs, as declared and/or proclaimed by the three VTCs examined. It is possible, however, that there are more noble goals and/or purposes for all VTCs to consider, whereby, a universal metric may be created to judge the successes and failures of each. Indeed, while the

concept of VTCs is arguably a great one, the implementation of said goals and/or purposes is a separate and very distinct matter, which demands further consideration.

APPENDIX A

Veterans Treatment Courts, Ph.D. Dissertation Questionnaire

ERICKSON, JR., JOHN W.
Ph.D. Candidate

1

Nova Southeastern University
Institute for the Study of Human Service, Health, and Justice
3301 College Avenue
Fort Lauderdale, 3314-7796

Veterans Treatment Courts Ph.D. Dissertation Questionnaire

1. To the extent that you are able to ascertain and/or provide the same, please provide the name(s), and any and/or all contact information, for your Veterans Treatment Court's (VTC's): (1) director(s); (2) judge(s); (3) head/lead administrator(s); (4) program lead(s); (5) court clerks(s); and (6) any and/or all persons who are intimately and/or regularly involved with your VTC's administrative and/or record keeping duties/tasks.
2. Please provide a detailed description of your VTC, to include, but not limited to, its history, and mission and/or vision statement(s), as well as its dates of operation.
3. Please provide a detailed description of your VTC's published goals, purpose(s), etc. Please be as specific as possible in providing the same.
4. Please provide a detailed description of your VTC's eligibility requirements. What must a U.S. Veteran do, be charged with, etc., in order to qualify for participation in your VTC?
5. What role, if any, do/does your VTC's judge(s) play in determining who qualifies for participation in your VTC? Please explain.
6. Please provide a detailed description of your VTC's administrative and courtroom procedures and/or rules. For example, does your VTC adhere to the local rules of civil and/or criminal procedure; or, in the alternative, does it adhere to and/or follow its own unique procedures and/or rules? If so, please provide a copy of the same.
7. Please provide the number of participants and/or Defendants who have participated in your VTC, to date, and per year since the creation of your VTC. In addition, please provide any and/or all previously published statistics, annual reports, etc., created for, by, and/or on behalf of your VTC.
8. With regard to recidivism and/or repeat offenders, and to the extent that it is known and/or recorded, please provide the number of participants and/or Defendants who have committed (a) crime(s) after completing and/or fulfilling the requirements of your VTC's program.
9. To the extent that you can, please describe and/or explain whether you believe your VTC is meeting its established goal(s), mission(s), etc.

APPENDIX A

ERICKSON, JR., JOHN W.
Ph.D. Candidate

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10. Please provide a list of proposed changes, and/or recommendations, which you believe would make your VTC more successful, and/or better assist it in meeting its intended goals, etc.
11. In your own words, please provide an individual assessment of your VTC. Do you think your VTC is "working?" Would you recommend participation in your VTC to family members and/or friends who are U.S. Veterans? Why or why not?
12. Please provide any and/or all additional information, which you think may assist the researcher in ascertaining: (1) whether Veterans Treatment Courts (VTCs) are meeting their articulated and/or established goals; and (2) the effectiveness of VTCs with regard to their intended clients (*i.e.*, U.S. Military Veterans).

*Your timely assistance with this research project is greatly appreciated.
To the extent that you have any questions with respect to the same, please do not hesitate to
contact the researcher at the numbers listed below.*

John W. Erickson, Jr.
Ph.D. Candidate
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Colorado Springs, Colorado
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APPENDIX A

APPENDIX B

Administrative Order Establishing Veterans Treatment Intervention Court Program

IN THE CIRCUIT COURT OF THE SEVENTEENTH
JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

Order Number 2012-35-Crim

**ADMINISTRATIVE ORDER ESTABLISHING
VETERANS TREATMENT INTERVENTION COURT PROGRAM**

- (a) Florida Rule of Judicial Administration 2.215(b)(3) states the chief judge shall "considering available resources, ensure the efficient and proper administration of all courts within [this] circuit."
- (b) The United States Department of Veterans Affairs (Department) is able to assist the court with the provision of services for veterans eligible to receive benefits from the Department who are arrested for municipal ordinance violations, misdemeanors, and felonies. The services provided by the Department will provide meaningful treatment for veterans that is anticipated will reduce recidivism and improve public safety.
- (c) The Department has agreed to provide the Circuit with a Veterans Justice Outreach (VJO) Coordinator one (1) day per week to develop individualized treatment plans for each veteran in an effort to alleviate the problems that resulted in the veteran's arrest.
- (d) Individuals have also agreed to provide a volunteer mentor program comprised of specially trained volunteers to assist veterans with the treatment plan and other needs available from the Department.
- (e) In accordance with the authority vested in the chief judge by Florida Rule of Judicial Administration 2.215, it is ordered:
 - (1) General Provisions.
 - a. A Veterans Treatment Intervention Court Program (court program) is established for county and circuit criminal cases effective May 7, 2012.
 - b. The judge assigned to preside over this court program shall establish the day and time of the hearings.
 - c. The VJO Coordinator shall be at all court hearings and case staffing.
 - d. An individual (defendant) must be a veteran or servicemember to be transferred to this court program.
 - e. At the time of booking at a jail or at first appearance, an attempt shall be made to determine if the defendant is a veteran or servicemember. If the defendant is identified as a veteran, his or her name shall be provided to the VJO Coordinator to determine eligibility for services from the Department.

- f. The Clerk of Courts shall assign all cases to a county or circuit criminal division subject to entry of a transfer order to this court program.
 - g. The division judge and court program judge must sign a written court order of transfer for cases sent to this program.
 - h. The Clerk of Courts shall designate, after transfer, county cases with the division alpha MVC and circuit cases with the division alpha VF.
 - i. If a defendant is terminated from this court program for any reason, the case shall be transferred to the originally assigned division for further proceedings.
 - j. The defendant must suffer from a military-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem.
 - k. The number of participants may be limited subject to funding for community programs and Department programs.
 - l. Impact Broward is responsible for implementing a mentor program in conjunction with the services provided by the Department.
 - m. After hearing, and with the agreement of the State, cases not otherwise qualified for this court program, may be transferred.
- (2) Felony Pretrial Intervention Programs.
- a. A defendant is eligible for a pretrial intervention program if he or she meets the requirements of §948.08, Fla. Stat.
 - b. A transfer to this court program may not be ordered until arraignment to allow the defendant sufficient time to consult with counsel, voluntarily agree to enter the court program, waive the right to a speedy trial, and review the proposed coordinated strategy while in a pretrial intervention program.
 - c. The State, defendant, or court may make the motion for transfer to this court program.
- (3) Misdemeanor Pretrial Intervention Programs.
- a. A defendant is eligible for a pretrial intervention program if he or she meets the requirements of §948.16, Fla. Stat.
 - b. A defendant may be eligible for a pretrial intervention program for other charges agreed to by the State Attorney.
 - c. The State may object to a case being transferred to this court program as authorized by §948.16, Fla. Stat.
 - d. A transfer to the court program may not be ordered until arraignment to allow the defendant sufficient time to consult with counsel, voluntarily agree to enter the court program, waive the right to a speedy trial, and review the proposed coordinated strategy while in a pretrial intervention program.

- e. The State, defendant, or court may make the motion for transfer to this court program. A hearing shall be held with the State, defense counsel (if any), and defendant present to provide evidence or argument that supports transfer to this court program.
- (4) Felony Post Adjudicatory Program.
- a. The defendant is eligible for probation or community control pursuant to Chapter 921, Fla. Stat.
 - b. The defendant is convicted of a criminal offense and sentenced pursuant to Chapter 921, Fla. Stat., by a division judge.
 - c. A defendant seeking a downward departure may be transferred to this program if:
 - i. a plea of guilty or no contest is entered before the division judge;
 - ii. a waiver of the right to be sentenced by the division judge is entered on the record;
 - iii. files a written motion for downward departure as required by law and the criminal rules of procedure; and
 - iv. agrees that if the motion is denied the judge assigned to this court program may sentence the defendant.
 - d. If a defendant is placed on probation or community control, he or she shall be supervised as all other defendants.

DONE AND ORDERED in chambers at Fort Lauderdale, Broward County, Florida on May 7, 2012.

s/Peter M. Weinstein
Peter M. Weinstein, Chief Judge

APPENDIX C

Broward County Veterans Court, West Point Luncheon

BROWARD COUNTY VETERANS COURT

WEST POINT LUNCHEON
JUNE 6, 2015

CIRCUIT COURT JUDGE

EDWARD H. MERRIGAN, JR.

CRIMINAL DIVISION JUDGE
22 YEARS MILITARY SERVICE
COMBAT VETERAN OF OPERATION IRAQI FREEDOM

AGENDA

- INTRODUCTION
- VETERANS COURT
- SERVICE AS A LIEUTENANT
- CHALLENGES
- DON'T QUIT

VETERANS COURT

- ON GOING CONFLICTS IN IRAQ AND AFGHANISTAN
- MULTIPLE COMBAT DEPLOYMENTS (WORLD WAR II VETS - 60 DAYS OF COMBAT, VIETNAM 230 DAYS, IRAQ/AFGHANISTAN 290 DAYS)
- VOLUNTEER FORCE
- LARGE AMOUNTS OF PTSD, TBI
- VETERANS LEAVING ACTIVE DUTY
- NEED

VETERANS COURT

- FIRST VETERANS COURT IN BUFFALO, NY
- MANY STATES HAVE STARTED VETERANS COURTS
- FLORIDA NOW HAS 5 VETERANS COURTS WITH MANY JURISDICTIONS LOOKING TO CREATE VETERANS COURTS
- STATE ATTORNEY, PUBLIC DEFENDER, CLERK OF COURTS, COURT ADMINISTRATION
- PRIVATE, CRIMINAL AND CIVIL
- LEGAL AID

VETERANS COURT

- FLORIDA STATUTE 394.47891 (JULY 1)
- ADMINISTRATIVE ORDER NUMBER 2012-35- Crim
- CHIEF JUDGE PETER WEINSTEIN
- IN CONCERT WITH STATE ATTORNEY, PUBLIC DEFENDER, VETERANS ADMINISTRATION, VETERANS ORGANIZATIONS, PRIVATE BAR ASSOCIATIONS

VETERANS COURT

- PURSUANT TO THE ADMINISTRATIVE ORDER
- THE VETERANS COURT WAS ESTABLISHED ON MAY 7, 2012.
- THE DATE AND TIME OF THE COURT WAS SET BY THE VETERANS COURT JUDGE AS 1:30 PM ON MONDAY AFTERNOON.
- THERE IS A VETERANS JUSTICE OUTREACH COORDINATOR (VJO) DR. DEL GADO/ DR. LEVI AT ALL HEARINGS (PHD IN PSYC)

VETERANS COURT

- IMPACT BROWARD PROVIDES MENTOR SERVICES FOR THE VETERANS AND IS RESPONSIBLE TO VETTING ALL MENTORS
- THESE ARE VETERANS ASSIGNED TO HELP VETERANS IN THE PROGRAM AS A MENTOR

VETERANS COURT ELIGIBILITY

- VETERAN OR ACTIVE MILITARY MEMBER IN ORDER TO BE TRANSFERRED TO THE PROGRAM
- CAN NOT BE CHARGED WITH A CRIME UNDER FLORIDA STATUTE SECTION 776.08 (FORCIBLE FELONY) TREASON; MURDER; MANSLAUGHTER; SEXUAL BATTERY; CARJACKING; HOME-INVASION ROBBERY; ROBBERY; BURGLARY; ARSON; KIDNAPPING; AGGRAVATED ASSAULT; AGGRAVATED BATTERY; ETC.
- MISDEMEANOR OR FELONY

VETERANS COURT PROCESS

- AT TIME OF BOOKING OR FIRST APPEARANCE, ATTEMPT MADE TO DETERMINE IF DEFENDANT IS VETERAN OR SERVICE MEMBER
- DEFENDANT IS ASSIGNED TO A CRIMINAL DIVISION BY CLERK
- THE DIVISION JUDGE WILL SIGN AN ORDER TRANSFERRING THE CASE, ONCE THE DEFENDANT HAS REQUESTED THE TRANSFER AND THE DEFENDANT IS ELIGIBLE

VETERANS COURT PROCESS

- THE FELONY CASES ARE TRANSFERRED TO DIVISION "VF"
- THE MISDEMEANOR CASES ARE TRANSFERRED TO DIVISION "MVC"
- THE DEFENDANT MUST SUFFER FROM A MILITARY RELATED MENTAL ILLNESS, TBI, SUBSTANCE ABUSE, OR MENTAL DISORDER
- AFTER HEARING AND WITH THE AGREEMENT OF STATE ATTORNEY OTHER CASES MAY BE TRANSFERRED.

VETERANS PROGRAMS

- FELONY PRETRIAL INTERVENTION PROGRAM
 - DEFENDANT MEETS THE REQUIREMENTS OF FLORIDA STATUTE SECTION 948.16
 - ON CHARGES OUTSIDE THIS, STATE ATTORNEY MUST AGREE
 - TRANSFER AFTER ARRAIGNMENT TO ALLOW: CONSULTATION WITH COUNSEL; VOLUNTARILY AGREE; WAIVE SPEEDY TRIAL
 - STATE, DEFENDANT OR COURT MAY MAKE THE MOTION FOR TRANSFER

VETERANS PROGRAMS

- MISDEMEANOR PRETRIAL INTERVENTION PROGRAM
 - MEETS REQUIREMENTS OF FLORIDA STATUTE SECTION 948.16
 - OTHER CHARGES AS AGREED TO BY STATE
 - STATE MAY OBJECT AS AUTHORIZED BY 948.16 (DEALING OR SELLING CONTROLLED SUBSTANCES) HEARING HELD; PREPONDERANCE OF EVIDENCE
 - AFTER ARRAIGNMENT, SPEEDY, COUNSEL
 - STATE, COURT, DEFENDANT CAN REQUEST HEARING TO TRANSFER

VETERANS PROGRAMS

- FELONY POST ADJUDICATORY PROGRAM
 - DEFENDANT IS ELIGIBLE FOR PROBATION OR COMMUNITY CONTROL, PURSUANT TO FLORIDA STATUTE SECTION 921
 - DEFENDANT ENTERS PLEA AND SENTENCE ORIGINAL DIVISION JUDGE
 - DEFENDANT SEEKING DOWNWARD DEPARTURE MAY BE TRANSFERRED
 - DEFENDANT MUST: PLEA, SENTENCE, WRITTEN MOTION, AGREE IF MOTION DENIED, VETERANS JUDGE WILL SENTENCE, IF ON PROBATION WILL BE SUPERVISED AS ANY OTHER DEFENDANT

VETERANS COURT

- VETERANS IN THAT SUCCESSFULLY COMPLETE THE INTERVENTION PROGRAM CAN HAVE THE CHARGES DISMISSED.
- VETERANS IN THE POST ADJ. PROGRAM, MAY BE GRANTED THE DOWNWARD DEPARTURE.

GOALS

- TO GET THE VETERAN THE SERVICES THAT THE VETERAN NEEDS
- DRUG, MENTAL HEALTH COUNSELING, LIFE SKILLS, MEDICAL, DENTAL, JOB, AND HOUSING
- PRIVATE BAR BOTH CIVIL AND CRIMINAL, LEGAL AID, VETERANS ORGANIZATIONS

VETERANS COURT STATISTICS

- AS OF MAY 30, 2015, THERE ARE 264 ACTIVE CASES
- 197 VETERANS ARE RECEIVING SERVICES
- 7 ARE AWAITING SERVICES
- 43 NEED TO BE ASSESSED
- 42 HAVE SUCCESSFULLY COMPLETED THE PROGRAM AND HAVE HAD THEIR FELONY/MISDEMEANOR CASES DISMISSED.

CONCLUSION

- THE PURPOSE OF THE COURT IS TO HELP VETERANS
- WITH THE PROTRACTED CONFLICTS IN IRAQ AND AFGHANISTAN, MULTIPLE COMBAT DEPLOYMENTS, MORE PTSD
- GET THE VETERANS THE HELP AND SERVICES THAT THEY NEED AND COORDINATE WITH FEDERAL AND STATE AGENCIES

SERVICE AS A LIEUTENANT

- LEADERSHIP
- PT
- SUPPORT NCOS
- SUCCESS AND FAILURE
- LEADER VS COMMANDER

CHALLENGES

- ACADEMICS
- PHYSICAL
- LEADERSHIP
- TIME MANAGEMENT

DON'T QUIT

- KEEPING WORKING THROUGH THE PROBLEMS
- YOU CAN DO IT
- DO NOT GIVE UP
- KEEP TRYING

QUESTIONS?

APPENDIX D

Veteran Trauma Court Participant Guide



An introduction...

This guide explains what is expected of you as a participant in the Veteran Trauma Court and provides general information about the program. Specific terms will be found in your plea agreement.

As a Veteran Trauma Court participant, you must comply with the instructions given to you by the Judge, including following a treatment plan that will be developed for you. Some guidelines may vary at the discretion of Judge David Shakes, a retired U.S. military officer with more than 30 years of service.

This handbook should answer most of the questions you may have about the Veteran Trauma Court. However, if you have any other questions or concerns about the program, please contact your probation officer or defense counsel.

What is the Veteran Trauma Court?

The Veteran Trauma Court is a state and federally funded court program that, in collaboration with the 4th Judicial District partners, provides jail diversion services to U.S. military veterans with trauma spectrum disorders who have been charged with lower level felonies and/or misdemeanors. With the permission of the 4th Judicial District Attorney's Office, eligible veterans are moved from the traditional courtroom environment into the Veteran Trauma Court where they agree to actively engage in treatment and counseling, make regular court appearances, and are carefully supervised. Program staff assists participating veterans in accessing mental health and/or substance abuse treatment, and can connect them to educational, housing, and employment resources. Peer support will also be available. Through the Veteran Trauma Court we are honoring the military service of our veterans by assisting them in accessing treatment and services while holding them accountable for their actions.

Who *may* participate?

Veterans, including those persons who are currently serving and those persons who have been discharged or released from the Armed Forces of the United States, a reserve component thereof or the National Guard, **may** be eligible to participate in Veteran Trauma Court. The program is open to Veterans regardless of their race, color, national origin, age, disability, sex, marital status, familial status, parental status, religion, sexual orientation, length or location of service, or discharge status.

The following criteria are also considered:

- Charged with a lower level felony and facing criminal prosecution in the Fourth Judicial District;
- Experienced trauma related to service in the U.S. military which has been previously documented or can be documented;
- Diagnosed with a trauma spectrum disorder;
- Evidence supports the existence of a connection between the military service trauma and the criminal conduct;
- Not currently involved in the Drug Court program;
- Exhibits a willingness to actively participate in his or her treatment and recovery, and cooperates fully with the court;
- Agrees to authorize the release of information related to treatment to Veteran Trauma Court team members according to Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule;
- Agrees to waive his or her right to a speedy trial during participation in the Veteran Trauma Court.

Who may not participate?

Ineligible veterans include violent offenders and those who are currently charged with, or have pled or been found guilty of a felony in which they committed, attempted, conspired, or intended to commit:

- a sexual offense;
- or a felony crime involving a child.

For the purposes of the Veteran Trauma Court, a violent offender is a person who:

- (1) Is *currently* charged with or convicted of an offense during the course of which:
 - (i) The person used or threatened to use a firearm in the course of the crime;
 - (ii) There occurred the death of, or serious bodily injury to any person;
 - (iii) The person is charged with a domestic violence offense that alleges strangulation or is charged with stalking, C.R.S. § 18-9-111(4)(b).
- (2) Has *previously* been convicted of a felony which:
 - (i) Involved the use or threatened use of a firearm in the course of the crime;
 - (ii) There occurred the death of, or serious bodily injury to any person;
 - (iii) Included stalking, C.R.S. § 18-9-111(4)(b).

Ultimately, the Fourth Judicial District Attorney's Office decides which cases will be eligible and reserves the right to reject a Veteran's request for participation.

How do veterans get into the program?

Referrals into the Veteran Trauma Court program can come from many places: defendants, their family members, attorneys, judges, jail and probation staff, mental health professionals, and others. Requests for participation in the Veteran Trauma Court, along with supporting documents, will be submitted to the Fourth Judicial District Attorney's office for review. Final acceptance or denial into the program rests with the District Attorney's office. If you are accepted into the program and choose to participate, your defense counsel will be notified by the District Attorney's office.

Why should you participate?

The Veteran Trauma Court program offers you a chance to avoid jail or prison on your current charges. The Court Team will help you access mental health treatment and, if needed, alcohol and/or substance abuse treatment. The Team can also connect you to peer support and educational, housing, and employment assistance. If you take advantage of the opportunities and services offered, you may find ways to improve your life and become a more productive and responsible community member.

Confidentiality

By law some of your case is public record. However, information regarding your mental health, treatment, and related services are not available to the public and will only be made available to probation, the prosecution, your defense attorney, the court, and agencies that provide treatment and services to you during your time in the program. If you choose not to participate in the Veteran Trauma Court, the confidential information you provided for participation in this program will remain confidential and will not be used to prosecute you. To participate in this treatment program, you will be required to sign the following forms:

- Informed Consent: Program Participation
- Interagency Release of Information or Authorization
- Health Insurance Portability and Accountability Act (HIPPA) Authorization Form A: Enrollment into Research
- Health Insurance Portability and Accountability Act (HIPPA) Authorization Form B: Research Recruitment

These forms not only explain your voluntary participation and protections in the program, but they also allow participating agencies to share information as they assist you in accessing treatment and services.

Plea and Sentencing

The Veteran Trauma Court is not a trial court. By agreeing to participate in the program you will be entering into an agreement that will require you to plead guilty or admit a violation of probation or a deferred sentence. You will be sentenced accordingly.

Program Rules

To remain in the program, you must adhere to the following rules:

1. **Show up for court appearances as required.** You will be scheduled to appear in front of the Veteran Trauma Court Judge at the El Paso County Judicial Center on a regular basis. The frequency of your court appearances will depend upon your situation, and may be reduced as you make progress. In most cases, you will be expected to remain in the jurisdiction for the first year of your sentence to probation.
2. **Attend and actively participate in all ordered treatment sessions.** It is very important that you attend and participate in treatment as directed. An unexcused missed treatment session may result in a sanction.
3. **Be on time.** It is important that you be on time for your scheduled court appearances and treatment sessions. If you are late for a treatment session you may not be allowed to participate and could be considered non-compliant. Contact your counselor in advance if there is a chance that you may be late for an appointment.
4. **Avoid any further violations of the law.** New offenses could result in your being terminated from the Veteran Trauma Court program.

5. **Dress appropriately for court and treatment sessions.** Do not wear clothing with drug, alcohol, violent, or sexual themes to court and treatment sessions. Sunglasses may not be worn in court unless they are medically approved.

6. **Respect others.** Treat other participants, the Judge, your treatment providers, your probation officer, and the Veteran Trauma Court staff with respect. Inappropriate behavior or language will be reported to the Court and may result in a sanction or termination from the program.

7. **Avoid all illegal drug and/or alcohol activity and use.** This is essential if you want to be successful and complete the program. Do not sell, possess or use alcohol or illegal drugs. Any use of or relapse involving drugs and/or alcohol should be reported to your treatment provider and probation officer. You are encouraged to use medications as prescribed by your doctor. Abuse of prescription drugs will result in a sanction.

8. **Submit to urinalysis and/or breath tests if requested.** You will be asked about your history of substance and alcohol use and may be required to give a urine sample when you first enter the program. You may be required to participate in drug and/or alcohol treatment and submit to regular urine testing. The Judge will have access to all test results and may order a test at any time. The Judge will review your overall performance in the program and will decide the appropriate consequences.

9. **Comply with all terms of probation.**

Incentives, Infractions, and Sanctions

Your efforts and progress in treatment will be rewarded. Incentives **may** include but are not limited to the following (for a list of possible incentives, please see Appendix B):

- Recognition from the Judge;
- Reduced supervision;
- Decreased frequency of court appearances;
- Phase advancement;
- Fewer restrictions on your life;
- Early termination of probation;
- Sealing of records (in limited circumstances);
- If a deferred sentence is granted, upon successful completion, your guilty plea will be withdrawn and the charges against you dismissed.

If you follow your treatment plan and comply with the terms of your probation, you will be rewarded. If you fail to follow your treatment plan and/or the terms of your probation, you will be sanctioned.

Some examples of infractions **may** include but are not limited to the following:

- Missing treatment or probation appointments;
- Missing a court appearance;
- Refusing to give a urine sample or a positive urine sample;
- Failing to take prescribed medications as instructed;
- Violating the terms and conditions of your probation;
- Noncompliance with your Treatment Plan;
- Abuse of drugs and/or alcohol;
- New criminal charges.

The purpose of a sanction is to emphasize the importance of compliance with the terms of your probation and treatment plan, and of following through with the commitment that you made to yourself and the Veteran Trauma Court program. Sanctions for noncompliance or infractions committed while you are a participant of the program **may** include but are not limited to following (for a list of possible sanctions, please see Appendix B):

- Reprimand or warning from the Judge;
- Increase treatment and/or change in your Treatment Plan;
- Increased frequency of appointments with your Probation Officer;
- Increased frequency of court appearances;
- Community service;
- Increase in frequency of urine, alcohol and/or drug testing;
- Moving back one or more phases;
- Termination from the program;
- Jail or prison.

New Offenses

All new criminal arrests and offenses by Veteran Trauma Court participants will be tracked by the VTC Coordinator. New arrests, not involving a crime of violence, use of a firearm, a sexual offense, or felony crimes against a child may be taken into the VTC but the participant would be required to start the program from Phase 1. New misdemeanor arrests will remain in the county court for resolution. The participant may request that this case be "trailed" into the VTC for supervision. The team will staff any new arrest to make a recommendation to the judge if the person should be terminated from the program. Otherwise, new offenses that would be eligible for Veteran Trauma Court may not result in termination, but may be incorporated into program processing with sanctions applied as appropriate.

Termination from the Program

The Veteran Trauma Court is a voluntary program. However, once you have chosen to participate in the program and have signed the plea agreement, you may not withdraw from the program. The judge can terminate you from the program for repeated non-compliance, new criminal charges, bench warrants, or drug testing problems. The Veteran Trauma Court Judge will make the final decision regarding termination.

Phases of Participation

As a participant in the Veteran Trauma Court program, you must complete the Phases of Participation (see Appendix A). The amount of time you will spend in the program depends upon the terms of your plea agreement and your progress in treatment. The phases are as follows:

Phase 1: Stabilization (a minimum of 60 days)

Phase 2: Engagement (a minimum of 90 days)

Phase 3: Action (a minimum of 90 days)

Phase 4: Maintenance (a minimum of 120 days)

Just as a participant can progress through the phases of the program, they can also be regressed for certain behaviors. Conditions under which regression may occur include but are not limited to the following:

- Substance abuse/misuse of prescribed medications;
- Non-compliance/termination of treatment;
- Non-compliance with the terms of probation and/or deferred sentence;
- New charges.

Phase Advancement & Program Completion Request Letters

As you progress through Phases II through IV, you will be asked to write a Phase Advancement or Program Completion Request letter. This is not a punishment, but a chance for you to reflect on and celebrate your accomplishments!

Please type or neatly handwrite your letter and be prepared to read it during your court appearance. Bring a copy to share with the Judge.

Your Probation Officer will let you know when you need to prepare a Phase Advancement or Program Completion Request Letter and can assist you if you are unsure what to write. Some possible topics might include, but are not limited to:

- How has the community been impacted by my crime?
- What have I learned?
- What have I accomplished?
- What do I hope to accomplish long term? Short term?
- How have I changed?
- How have my positive behavior changes affected others (family members, the victim(s), friends, etc.)?

Recognition Ceremony

You will be recognized for successfully completing the Veteran Trauma Court program. During the ceremony the judge will congratulate you for successfully meeting the terms of the program and working toward recovery and establishing stability in your life. Your family and friends are invited to participate with you as you reach this milestone.

Protecting Your Privacy

Since the Veteran Trauma Court (VTC) officially began in December 2009, a great deal of interest in the program has resulted not only from the public, but also from the press. To date the program has been featured in local, state, national, and international media outlets.

Although those involved in the development and management of the VTC are interested in telling others about the work we are doing to help veterans, most press agencies also want to hear the stories of program participants like you. While you are legally free to speak with whomever you choose about your life experiences including your participation in the VTC, we strongly discourage you from speaking to the press.

Reporters may ask questions that you may find offensive or upsetting. This may have a negative impact on your recovery and well-being.

If you should choose to participate in an interview, there are some points you should consider before doing so:

- The Court Team respects your privacy and will not discuss your case or share your contact information with any media agency or reporter.
- Before participating in an interview, we encourage you to speak with your therapist(s). They may help you determine if doing so is in the best interest of your ongoing treatment and recovery.
- If you do agree to participate in an interview, you do not have to answer all the questions you are asked. It is okay to say no.
- Reporters will sometimes request and be granted permission to record court proceedings. If you are scheduled to appear on one of those days, your written approval must be given before your appearance in front of the Judge can be recorded. Again, you have the right to say no.
- Your participation or refusal to participate in any media interview or story will have neither a positive or negative impact upon your case.

If you have any questions, concerns, or have participated in an interview that you found upsetting, we encourage you to speak to your probation officer and therapist(s) as soon as possible.

APPENDIX A

VETERAN TRAUMA COURT PHASES OF PARTICIPATION

Veteran Trauma Court

Criteria for Movement from Phase 1 to Phase 2:

Stabilization

(Estimated duration in Phase I = minimum of 60 days)

(Participant's Name)

Phase Entry Date _____

Agree Disagree

- | | | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Verbalizes all components of the VTC program |
| <input type="checkbox"/> | <input type="checkbox"/> | Attends and is on time for scheduled activities such as, court appearances, probation appointments, and treatment sessions. (must remain in courtroom for duration of Court) |
| <input type="checkbox"/> | <input type="checkbox"/> | If ordered, complete a comprehensive clinical assessment and sign as well as verbalize treatment plan goals. |
| <input type="checkbox"/> | <input type="checkbox"/> | No unexcused absences from scheduled services and appointments for the last 14 days (consecutive) |
| <input type="checkbox"/> | <input type="checkbox"/> | Comply with substance abuse testing: <ul style="list-style-type: none"> ➢ Testing to be defined by probation ➢ No positive test results for the last 30 days (consecutive) <ul style="list-style-type: none"> ○ Missed, tampered and dilute tests are considered as positive test results |
| <input type="checkbox"/> | <input type="checkbox"/> | Takes medications as prescribed and submit a list of all prescribing providers |
| <input type="checkbox"/> | <input type="checkbox"/> | Read, sign, and comprehend treatment contract and probation conditions. |
| <input type="checkbox"/> | <input type="checkbox"/> | Payment plan set up in first 30 days (date of first payment to be determined by the Probation Collections Investigator). Restitution must be paid before graduating from VTC. |
| <input type="checkbox"/> | <input type="checkbox"/> | Checks in with Veteran Peer Mentor program or assigned mentor as directed by the peer mentor |
| <input type="checkbox"/> | <input type="checkbox"/> | Complies with all court orders |
| <input type="checkbox"/> | <input type="checkbox"/> | Begins to accept personal responsibility for offense |
| <input type="checkbox"/> | <input type="checkbox"/> | Write and review a Phase 2 promotion letter with probation officer and treatment provider |

Probation Officer _____
Name (Print) Signature Date

DATE OF PHASE REVIEW _____ PHASE PROGRESSION DATE _____

Participant's Signature _____ Date _____

Veteran Trauma Court

Criteria for Movement from Phase 2 to Phase 3:

Engagement

(Estimated duration in Phase II = minimum of 90 days)

(Participant's Name)

Phase Entry Date _____

Agree Disagree

- | | | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Completes short term treatment goals in accordance with treatment plan. |
| <input type="checkbox"/> | <input type="checkbox"/> | Articulates and demonstrates internal motivation for treatment and change. |
| <input type="checkbox"/> | <input type="checkbox"/> | Sets goals self-sufficiency (may include vocational, educational, or volunteer work) |
| <input type="checkbox"/> | <input type="checkbox"/> | Register with Front Range Community Service to prepare starting UPS if ordered. |
| <input type="checkbox"/> | <input type="checkbox"/> | Continues to abide by payment plan (if applicable) |
| <input type="checkbox"/> | <input type="checkbox"/> | Seeks out or participates in pro-social activities in order to expand support network |
| <input type="checkbox"/> | <input type="checkbox"/> | Complies with all court orders |
| <input type="checkbox"/> | <input type="checkbox"/> | Verbalizes all components of the VTC program |
| <input type="checkbox"/> | <input type="checkbox"/> | Attends and is on time for scheduled activities such as, court appearances, probation appointments, and treatment sessions. |
| <input type="checkbox"/> | <input type="checkbox"/> | No unexcused absences from scheduled services and appointments for the last 14 days (consecutive) |
| <input type="checkbox"/> | <input type="checkbox"/> | Comply with substance abuse testing: <ul style="list-style-type: none"> ➤ Testing to be defined by probation ➤ No positive test results for the last 30 days (consecutive) <ul style="list-style-type: none"> ○ Missed, tampered and dilute tests are considered as positive test results |
| <input type="checkbox"/> | <input type="checkbox"/> | Takes medications as prescribed and submit a list of all prescribing providers |
| <input type="checkbox"/> | <input type="checkbox"/> | Checks in with Veteran Peer Mentor program or assigned mentor as directed by the peer mentor |
| <input type="checkbox"/> | <input type="checkbox"/> | Fully accepting personal responsibility for offense |
| <input type="checkbox"/> | <input type="checkbox"/> | Write and review a Phase 3 promotion letter with probation officer and treatment provider |

Probation Officer _____

Name (Print) Signature Date

DATE OF PHASE REVIEW _____ PHASE PROGRESSION DATE _____

Participant's Signature _____ Date _____

Veteran Trauma Court

Criteria for Movement from Phase 3 to Phase 4:

Action

(Estimated duration in Phase III = minimum of 90 days)

(Participant's Name) _____

Phase Entry Date _____

Agree Disagree

- | | | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | No unexcused absences from scheduled services and appointments for the last 60 days (consecutive) unless approved by Probation. |
| <input type="checkbox"/> | <input type="checkbox"/> | Attends and is on time for scheduled activities such as, court appearances, probation appointments, and treatment sessions. |
| <input type="checkbox"/> | <input type="checkbox"/> | Comply with substance abuse testing: <ul style="list-style-type: none">➢ Testing to be defined by probation➢ No positive test results for the last 30 days (consecutive)<ul style="list-style-type: none">○ Missed, tampered and dilute tests are considered as positive test results |
| <input type="checkbox"/> | <input type="checkbox"/> | Takes medications as prescribed and submit a list of all prescribing providers |
| <input type="checkbox"/> | <input type="checkbox"/> | Checks in with Veteran Peer Mentor program or assigned mentor as directed by the peer mentor |
| <input type="checkbox"/> | <input type="checkbox"/> | Complies with all court orders |
| <input type="checkbox"/> | <input type="checkbox"/> | Seeks out or participates in pro-social activities in order to expand support network |
| <input type="checkbox"/> | <input type="checkbox"/> | Initiates actions indicative of having full personal responsibility for the offense |
| <input type="checkbox"/> | <input type="checkbox"/> | Initiates the development of a written relapse prevention plan and discuss with treatment provider and probation officer |
| <input type="checkbox"/> | <input type="checkbox"/> | Initiates the development of a written aftercare plan and discuss with treatment provider and Probation Officer |
| <input type="checkbox"/> | <input type="checkbox"/> | Begins and completes 50% of useful public service |
| <input type="checkbox"/> | <input type="checkbox"/> | Continues to abide by payment plan (if applicable) |
| <input type="checkbox"/> | <input type="checkbox"/> | Actively working to achieve goals self-sufficiency (may include vocational, educational, or volunteer work) |
| <input type="checkbox"/> | <input type="checkbox"/> | Write and review a Phase 4 promotion letter with probation officer and treatment provider |

Probation Officer	_____	_____	_____
	Name (Print)	Signature	Date

DATE OF PHASE REVIEW _____ PHASE PROGRESSION DATE _____

Participant's Signature _____ Date _____

Veteran Trauma Court

Criteria for Movement from Phase 4 to Program Graduation: Maintenance

(Estimated duration in Phase IV = minimum of 120 days)

(Participant's Name)

Phase Entry Date _____

Agree Disagree

- | | | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | No unexcused absences from scheduled services and appointments for the last 120 days (consecutive) unless approved by Probation. |
| <input type="checkbox"/> | <input type="checkbox"/> | Comply with substance abuse testing: <ul style="list-style-type: none">➢ Testing to be defined by Probation➢ No positive test results for the last 60 days (consecutive)<ul style="list-style-type: none">○ Missed, tampered and dilute tests are considered as positive test results |
| <input type="checkbox"/> | <input type="checkbox"/> | Completes all court ordered treatment |
| <input type="checkbox"/> | <input type="checkbox"/> | Completes and understands how to implement written aftercare plan and discuss with treatment provider and Probation Officer |
| <input type="checkbox"/> | <input type="checkbox"/> | Completes remaining court ordered useful public service |
| <input type="checkbox"/> | <input type="checkbox"/> | Continues to abide by payment plan (if applicable) |
| <input type="checkbox"/> | <input type="checkbox"/> | Write and review a graduation letter with probation officer and treatment provider |
| <input type="checkbox"/> | <input type="checkbox"/> | Completed all court orders |

Probation Officer _____	_____	_____
Name (Print)	Signature	Date

DATE OF PHASE REVIEW _____ PHASE PROGRESSION
DATE _____

Participant's Signature _____
Date _____

Agree Disagree

- | | | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Based on the participant's completion of Phase IV, the Treatment Team recommends the Court grant an early termination of probation. |
|--------------------------|--------------------------|---|

Participant's Signature _____ Date _____

**Veteran Trauma Court
REGRESSION / HOLD**

(Participant's Name) _____

Incentives and sanctions are designed to motivate program participants and increase program engagement. However, after persistent non-compliance, a participant may be regressed to a prior phase. Just as a participant can be progressed through the phases of the Veteran's Trauma Court, a participant can also be regressed for certain behaviors. In the event that a participant is charged with a new offense, progression in the current phase will be placed on hold pending disposition of the new case. Conditions under which this may occur include but are not limited to:

Agree Disagree

- ☐ ☐ Substance abuse/misuse of prescribed medications
- ☐ ☐ Non-compliance/termination of treatment
- ☐ ☐ New charges _____
- Current phase will be placed on hold;
 - Intermediate sanctions may be applied by probation.
- ☐ ☐ Other _____

Probation Response: _____

Name (Print)	Agree Disagree	Signature	Date
Probation Officer _____	<input type="checkbox"/> <input type="checkbox"/>	_____	_____
Treatment Provider(s) _____	<input type="checkbox"/> <input type="checkbox"/>	_____	_____
Probation Supervisor _____	<input type="checkbox"/> <input type="checkbox"/>	_____	_____

Plan of Action: _____.

Participant's Signature _____ Date _____

Veteran Trauma Court

Criteria for Aftercare Program:

(Estimated duration in Aftercare Program = 1 Year)

(Participant's Name) _____

Phase Entry Date _____

Agree Disagree

- | | | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Scheduled meeting with VTC Coordinator and Aftercare Program Director |
| <input type="checkbox"/> | <input type="checkbox"/> | Review the Aftercare Contract with VTC Coordinator |
| <input type="checkbox"/> | <input type="checkbox"/> | Take Aftercare Contract to current clinician and discuss "treatment" section (have Initialed by clinician) |
| <input type="checkbox"/> | <input type="checkbox"/> | Meet with assigned Aftercare Coach, sign contract together, monthly meeting strategy |
| <input type="checkbox"/> | <input type="checkbox"/> | Check in with the Aftercare Coach monthly – in person or by phone |
| <input type="checkbox"/> | <input type="checkbox"/> | Complete "seal" paperwork |
| <input type="checkbox"/> | <input type="checkbox"/> | Continue with recommended treatment from treatment provider |
| <input type="checkbox"/> | <input type="checkbox"/> | Do not re-offend. Do not get re-arrested |
| <input type="checkbox"/> | <input type="checkbox"/> | At the end of yearlong program, submit "seal" paperwork to VTC Coordinator if applicable |

VTC Coordinator _____	_____	_____
Name (Print)	Signature	Date

DATE OF ANTICIPATED COMPLETION OF AFTERCARE PROGRAM:

Participant's Signature _____ Date _____

APPENDIX B
VETERAN TRAUMA COURT SANCTIONS & INCENTIVES



Sanctions and Incentives

The following list includes some of the sanctions & incentives that may be implemented by the VTC team. Research has shown that sanctions and incentives provide motivation, encourage program engagement, and increase participant retention. The purpose of a sanction is not to punish, but to encourage positive behavior change. Conversely, an incentive is a reward for positive behavior.

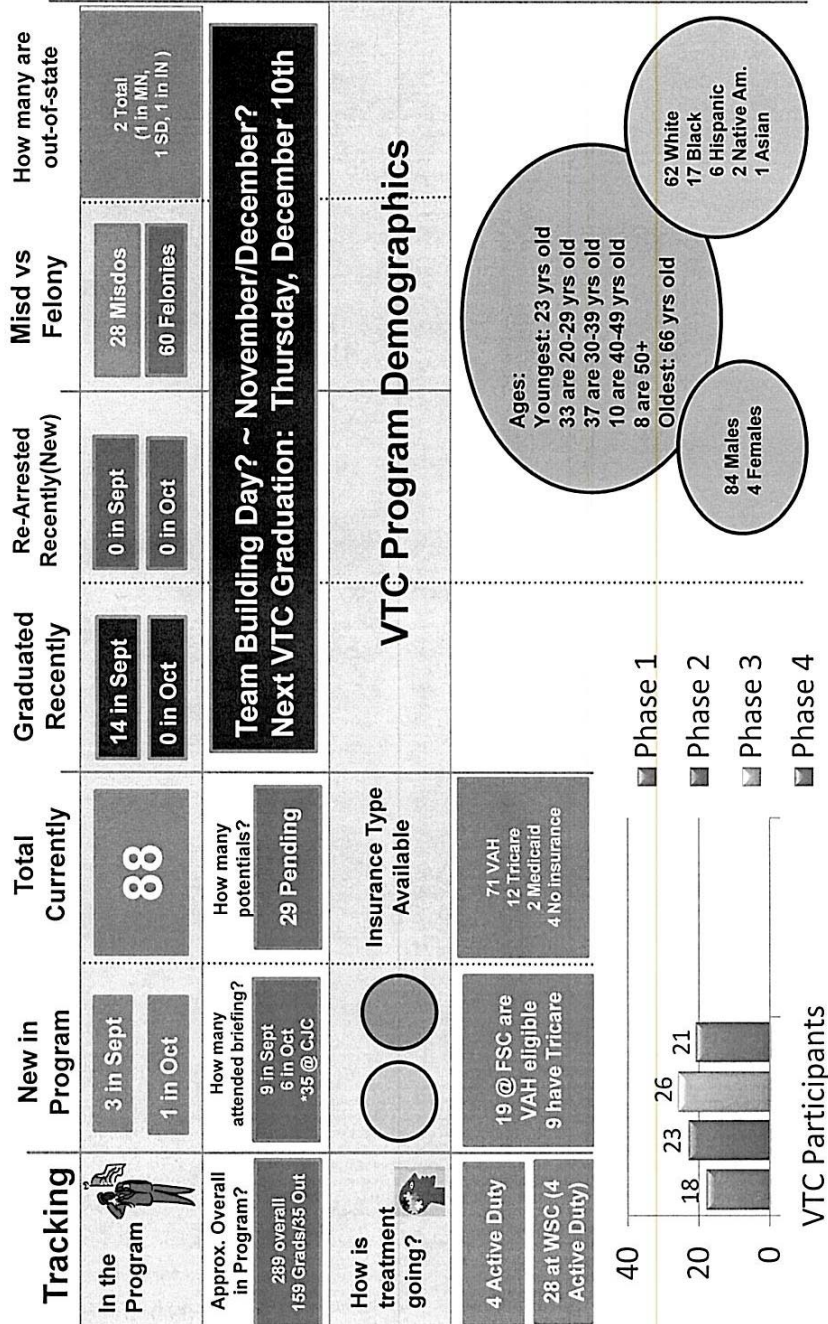
Sanctions	Incentives
Essays/letters	Court "Strong Performers/Starters" list
Research paper on how not to dilute a UA	Verbal praise, compliments from the Judge
Increased UAs	Fishbowl drawings
Weekend jail	Applause/Special Recognition
Short-term jail sentence	Ammo can with candy bars
Increase time in phase or track	Medallion/Coins
Verbal and/or written apologies	Dog tags
More frequent testing	Picnics/parties
Return to lower phase	Restaurant gift certificates
Extra UPS hours	Graduation Certificates
Admonishment from Judge	Sports tickets
Lengthen time in program	Books/magazines
Electronic monitoring/SCRAM	Bus passes
Increased court appearances	Wave fees or fee reductions
Back Phasing/Regression	Fast Food vouchers
Role reversal or self-imposed sanctions	Wave fees or fee reductions
Require sober living home	Phase Advancement
Increased probation appointments	Increase in travel privileges
Adding time to probation	Group positive feedback
Termination from program	Coupons to local establishments
Extra drug screens/add spice screens	Gift cards/certificates
Keep, write, complete calendar and return calendar to court	Acknowledgement of clean time/days sober
AA/NA Attendance	Early termination from probation
Geographical restrictions	Movie passes/gift cards
	Recognizing former graduates
	Expunging record/waive fees for sealing arrest record

APPENDIX E

VTC Snapshot

As of 13 Oct 15

VTC Snapshot



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Program Evaluation*. San Francisco, CA: Josey-Bass.

Curriculum Vitae

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TEACHING EXPERIENCE

Adjunct, Criminal Law and Procedure (Political Science 323), and Homeland Security and the Law (Political Science 324), **Colorado State University - Pueblo**, Pueblo, CO; 2012 - 2015

Adjunct, Introduction to Justice (Justice A110), and Crime and Delinquency (Justice A251), **2010 Ford Foundation Fellow**, University of Alaska Anchorage, **Matanuska-Susitna College**, Palmer, AK; 2006 - 2011

Adjunct, Divorce Mediation (On-Line Course Utilizing Blackboard), School of Legal Studies, **Kaplan University**, Davenport, Iowa; 2010 - 2011

Guest Lecturer/Presenter, USAFA Career Day (Judge Advocate General Corps), and National Security Law Seminar, **USAFA**, Colorado Springs, CO; 2013 - 2014

Facilitator, VECTOR and ACES, Center for Character and Leadership Development, **USAFA**, Colorado Springs, CO; 2011 - 2015

Mock Trial Judge, Thunderbird Invitational Mock Trial Tournament, **USAFA**, Colorado Springs, CO; 2011 & 2013

Adjunct/Presenter, Homeland Defense/Homeland Security Course 14-A, **U.S. Air Force JAG School**, Maxwell AFB, AL; 2014

Adjunct, Domestic Operations (DOMOPS) Law Course, **U.S. Army JAG School**, Charlottesville, NC; 2011

Instructor, NORAD and USNORTHCOM 101, Defense Support of Civil Authorities (DSCA) Phase II, JTF Commanders Training Course (JCTC), Defense Support of Civil Authorities - Executive Seminar (DSCA-ES) (Washington, DC), **Consistently Rated: "Best of the Best,"** HQ NORAD and USNORTHCOM, Peterson AFB, CO; 2011 - 2015

Faculty, Trial Advocacy, Defense Institute of International Legal Studies (**DIILS**), Mexico City, Mexico; 2012 - 2015

Director and Faculty Member, U.S. Supreme Court, and Federal Courts, **Civil Air Patrol** - Civic Leadership Academy, Washington DC; 2009 - 2015

EDUCATION

NOVA SOUTHEASTERN UNIVERSITY, Criminal Justice Institute, Fort Lauderdale-Davie, Florida
Doctor of Philosophy, Criminal Justice; Expected: June 2016 (On-Line Program Utilizing Blackboard)
Master of Science, Forensic Psychology; August 2014 (On-Line Program Utilizing Blackboard)

UNITED STATES ARMY MILITARY POLICE SCHOOL, Fort Leonard Wood, Missouri
Special Victims Capability Course; March 2016

AIR UNIVERSITY, Air War College, Maxwell Air Force Base, Alabama
March 2016 (On-Line Program Utilizing Blackboard)

AIR UNIVERSITY, Air Command and Staff College, Maxwell Air Force Base, Alabama
Master of Military Operational Art and Science; June 2009 (On-Line Program Utilizing Blackboard)

UNIVERSITY OF ALASKA FAIRBANKS, Fairbanks, Alaska
Master of Arts, Administration of Justice; December 2004 (On-Line Program Utilizing Blackboard)
▪ The Honor Society of Phi Kappa Phi - Member

U.S. AIR FORCE JUDGE ADVOCATE GENERAL SCHOOL (JASOC), Maxwell AFB, Alabama
Certificate of Training; September 2000
▪ Outstanding Legal Assistance Student Award (JASOC 00-C LAMP Award Winner)

J. REUBEN CLARK LAW SCHOOL, BRIGHAM YOUNG UNIVERSITY, Provo, Utah
Juris Doctor; April 1999
▪ Alternative Dispute Resolution (ADR) Society - Member
▪ Highest Grade - Advanced Mediation; April 1999
▪ Phi Delta Phi Legal Fraternity - Member

UNIVERSITY OF ALASKA FAIRBANKS, Fairbanks, Alaska

Bachelor of Arts, Speech Communication; May 1993; Cum Laude

Bachelor of Arts, Justice; December 1992; Cum Laude

- Alpha Phi Sigma, National Criminal Justice Honor Society - Member
- Lambda Alpha Epsilon, American Criminal Justice Association (ACJA) - Member
- Gold Key of Recognition for Scholastic Attainment, ACJA; 1993

CONNECTICUT POLICE ACADEMY, Meriden, Connecticut

Seasonal Appointment; June 1990

- Honor Graduate

LEGAL EXPERIENCE

NATIONAL GUARD BUREAU, OFFICE OF COMPLEX INVESTIGATIONS, Joint Base Andrews, Maryland

Sexual Assault Investigator, February 2015 - Present

LAW OFFICES OF JOHN W. ERICKSON, JR., LLC Colorado Springs, Colorado

Founding Attorney, January 2012 - February 2015

- Criminal Defense Practice
- Wide-Ranging Appellate Practice (e.g., criminal, post-conviction relief, section 1983 claims, etc.)
- Veterans Court Volunteer, Colorado Springs, Colorado

HEADQUARTERS NORAD and USNORTHCOM, Peterson Air Force Base, Colorado Springs, Colorado

Chief, National Guard and Reserve Legal Operations Branch; June 2011 - January 2015

- Provide Commander, Staff Judge Advocate, Directorates Thoroughly Researched Legal Advice
- Liaison Officer Regarding NORAD Agreements/Treaties, and Rules for Domestic Air/Ground Operations
- Subject Matter Expert, Defense Support of Civil Authorities (DSCA), Homeland Security, and Continuity of Govt.
- Provide All Combatant Command Leaders and Members With Timely Ethics Advice and/or Opinions
- Defense Institute of International Legal Studies (DIILS), Trial Advocacy Instructor, Mexico
- Officer in Charge (OIC), Headquarters NORAD and USNORTHCOM Awards Committee
- Field Grade Officer of the Quarter; Oct-Dec 2013

STATE OF ALASKA, DEPARTMENT OF LAW, CIVIL DIVISION, Anchorage, Alaska

Assistant Attorney General; June 2008 - June 2011

- Wide-ranging appellate practice; represented state agencies on a broad range of issues affecting state government that arise under Federal Indian Law and state and federal statutes addressing the rights, powers and responsibilities of Alaska Natives and other indigenous organizations; and, third-party subrogation practice
- "Alaska's Top 40 Under Forty," 2008 Award Recipient

ALASKA AIR NATIONAL GUARD, 176TH AW, LEGAL OFFICE, Kulis ANGB, Anchorage, Alaska

Deputy Staff Judge Advocate; March 2008 - June 2011; Acting Staff Judge Advocate, July 2010 - October 2010

- Provided legal assistance to service members and their families; participated in administrative discharge boards - as recorder/prosecutor or defense counsel (requested by name); advised command staff regarding personnel and operational matters

U.S. DISTRICT COURT, DISTRICT OF ALASKA, Anchorage, Alaska

Career Law Clerk (JS-14) to the Honorable Ralph R. Beistline; May 2002 - June 2008

- Researched and drafted opinions, bench memoranda, etc. on issues of complex civil and criminal litigation; calendared events; attended hearings; provided legal counsel to the Court; led educational seminars on the topic of the U.S. Courts; frequently performed duties as a law clerk to the Ninth Circuit Court of Appeals; keynote speaker at numerous naturalization ceremonies

STATE OF ALASKA, DEPARTMENT OF LAW, CRIMINAL DIVISION, Palmer, Alaska

Assistant District Attorney; August 2001 - May 2002

- Conducted grand jury proceedings; tried criminal matters; interviewed witnesses and victims; participated in settlement conferences; drafted motions, affidavits, stipulations, memoranda, etc.

ALASKA AIR NATIONAL GUARD, 168TH ARW, LEGAL OFFICE, Eielson AFB, Alaska

Deputy Staff Judge Advocate; January 2001 - July 2003

- Provided legal assistance to service members and their families; participated in administrative discharge boards - as recorder/prosecutor; advised command staff regarding personnel and operational matters

GUESS & RUDD, P.C., Anchorage, Alaska

Associate Attorney; October 2000 - August 2001

- Drafted motions, affidavits, stipulations, memoranda, etc.; researched and wrote office memoranda on issues of complex insurance defense litigation; attended hearings, depositions, etc.

ALASKA SUPERIOR COURT, FOURTH JUDICIAL DISTRICT, Fairbanks, Alaska

Term Law Clerk to the Honorable Ralph R. Beistline; August 1999 - July 2000

- Researched and drafted opinions, bench memoranda, etc. on issues of complex civil and criminal litigation; calendared events for the Court; attended hearings on behalf of the Court; provided legal counsel and/or assistance to the Court

J. REUBEN CLARK LAW SCHOOL, BRIGHAM YOUNG UNIVERSITY, Provo, Utah

Legal Research Assistant to David A. Thomas, Thompson on Real Property, Thomas Edition; 1998-1999

- Researched legal trends in landlord and tenant law and drafted updates to national treatise

COMMUNITY SERVICE

ROTARY INTERNATIONAL, Rotary Club of Colorado Springs, Colorado Springs, Colorado

Member; 2015 - Present

U.S. AIR FORCE ACADEMY, USAFA, Colorado

Cadet Sponsor; 2013 - 2016

EL PASO COUNTY BAR ASSOCIATION, Colorado Springs, Colorado

Pro Bono Attorney/Legal Clinic Volunteer; 2012 - 2016

NINTH CIRCUIT COURT OF APPEALS PRO BONO PROGRAM, San Francisco, California

Pro Bono Appellate Attorney; 2008 - Present

FEDERAL BAR ASSOCIATION, Denver, Colorado

Member, 2006 - Present; Member, Indian Law Section, 2006 - Present; Alaska Chapter President, 2009 - 2010

ALASKA DISTRICT COURT, THIRD JUDICIAL DISTRICT, Anchorage, Alaska

Volunteer Small Claims Mediator; 2000 - 2001, 2010 - 2011

U.S. DISTRICT COURT, DISTRICT OF ALASKA, Anchorage, Alaska

Federal Court Fund Committee, Committee Member; February 2011 - 2012

U.S. AIR FORCE, CIVIL AIR PATROL, Maxwell Air Force Base, Alabama

Member, 1985 - Present; Director & Faculty Member, Civic Leadership Academy, Washington D.C., 2009 - 2015

ALASKA STATE FAIR, Palmer, Alaska

Director, Alaska State Fair Board of Directors, February 2008 - June 2011

BOY SCOUTS OF AMERICA, Pike's Peak Council, Colorado Springs, Colorado

Merit Badge Counselor, District Committee Chairman, and Eagle Scout Mentor; 2001 - 2016

CENTRAL MAT-SU FIRE & EMS, Wasilla, Alaska

Emergency Medical Technician (NREMT-B, AK-EMT-3), October 2009 - May 2011

ADMITTED TO PRACTICE

- U.S. Court of Appeals for the Tenth Circuit; 2014
- U.S. District Court, District of Colorado; 2014
- Colorado Supreme Court; 2012
- U.S. Court of Appeals for the District of Columbia Circuit; 2008
- U.S. Supreme Court; 2006
- U.S. Court of Appeals for the Ninth Circuit; 2001
- U.S. Court of Appeals for the Armed Forces; 2000

- U.S. Air Force Court of Criminal Appeals; 2000
- U.S. District Court, District of Alaska; 2000
- Alaska Supreme Court; 2000

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